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*Preservation Planning*  
*for*  
**HISTORICAL  
LANDSCAPES**



prepared by the Pioneer Valley Planning Commission June 1986



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PRESERVATION PLANNING

FOR

HISTORICAL LANDSCAPES

Prepared by the  
Pioneer Valley Planning Commission

June 1986

"This project has been funded with the assistance of a matching grant-in-aid from the Department of Interior, National Park Services, through the Massachusetts Historical Commission, Secretary of State Michael Joseph Connelly, Chairman, under the provision of the National Historic Preservation Act of 1866."



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# 1. INTRODUCTION

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Historic Preservation has, in a large part, been restricted to looking at the buildings and structures--bridges, fountains, monuments--in our towns and cities. Our historic heritage is made up of those objects in part, but also how they relate to each other, where they are placed in the community--the landscape.

Take, for example, the typical New England Town Common. It is composed of an open grassy area, often a long rectangle, is bounded by large shade trees and roads. Civic buildings are often located on the Common, the tall spired white church, the Town Hall and perhaps the school. To complement the civic buildings, there are often stately old homes or commercial buildings ringing the Common. Now, let's say that the historically most important buildings on this Town Common are the Church and the first home build in town c.1650. A large supermarket chain has bought up all of the rest of the homes and buildings and has gained title to the Common itself, to build a new mall which will bring thousands of dollars of revenue into the town. The mall construction paves over the Common and adjacent land area for parking, builds an ultra-modern structure, and retains the Church and historic home as examples of their commitment to the historic heritage of the town.

Is this really satisfactory historic preservation? Is there any vestige of the character of this original Town Center remaining? Obviously, the answer is no. The Church and home, now surrounded by asphalt, might be anywhere. They have lost the support of the surrounding landscape, which together with the structures, give a town its character.

For the residents of a town, it is often difficult to describe the character of their town--what it is that makes it special. However, when this character has been suddenly changed or taken away as in the mythical example above, the townspeople take notice--and it is already too late.

With the tremendous amount of growth pressure and development taking place in many Massachusetts towns and cities today, it is imperative that historical commissions define a preservation plan which will protect their historic landscapes--not just individual buildings. The following outline and examples of preservation planning will help you to prepare a preservation plan for your own community.

From the first settlement of the Dutch in 1624 to the present time, the city of New York has been the seat of government, commerce, and industry. It has been the center of the Empire State, and the most important city in the United States. The city has grown from a small village of about 100 people in 1624 to a metropolis of over 10 million people in 1900. The city has been the site of many important events in American history, and it has played a major role in the development of the United States. The city has been the home of many famous people, and it has been the center of many important movements. The city has been the site of many important battles, and it has been the center of many important decisions. The city has been the home of many important institutions, and it has been the center of many important activities. The city has been the site of many important events, and it has played a major role in the development of the United States. The city has been the home of many famous people, and it has been the center of many important movements. The city has been the site of many important battles, and it has been the center of many important decisions. The city has been the home of many important institutions, and it has been the center of many important activities. The city has been the site of many important events, and it has played a major role in the development of the United States.



## 2. The Preservation Plan

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A preservation plan is a plan for the protection of your town's historic buildings and landscapes. It should be a well thought out plan, based on strong reasoning and facts about the properties you wish to protect. It should also use a variety of preservation measures, providing a wide spectrum of protection for various properties - some you may wish to preserve as museum pieces, others through which you may only wish to preserve "neighborhood character".

It is never too soon to begin a preservation plan. Although the threat to your town's resources may not seem severe at this point in time, it is the gradual eroding of a Town's character and it's significant features which cause the most severe loss of historic landscape within a town. By having a preservation plan developed, you will not only know what your resources are, but will be able to implement long range planning strategies rather than fighting preservation battles on a crisis basis.

The preservation plan must develop from a strong historical resources inventory, which is the basic job description of the Historical Commission as mandated by the state legislation. The historical resources inventory provides the Commission with the background and cold, hard facts to make informed preservation decisions. It is essential to have these facts when entering into public debate over the importance of a particular building, area, or landscape in order to back your claim of historical merit.

Once the historical resources inventory is completed, the first step in defining a preservation plan is to gather information. If your town has a completed Master Plan, even one out of date, use it as a base of information about your town. Collect resource inventory maps, zoning maps and bylaws, a listing or mapping of subdivisions, subdivision control regulations, an open space plan and any other resources that the town may have to give you an indication of the town's resources and/or land use controls. Get together as a group to discuss your town, looking carefully at where environmental resources are in conjunction with historical resources, and where the development in town is occurring. Target these areas for a closer look. Then observe those land use regulations already in effect for a particular area (e.g. zoning, subdivision, site plan review), and decide whether they support or negate preservation.

Once you have targeted areas of importance and understand the controls already in effect, you need to make some decisions on the type and extent of control you wish to institute in each area. These decisions should be based upon the quality, type and extent of historical resources in each area. Then decide on the exact option you wish to preserve, as outlined in Section VI, using various measures together to produce the desired level of control.

Throughout the process of defining your preservation plan, involving other town boards and the public is of prime importance. Gaining support for the plan, and incorporating public sentiment early on will make the process of instituting the recommended bylaws and ordinances far easier than planning in isolation. It cannot be stressed strongly enough that public support for the plan is where your efforts will either succeed or fail. Planning Board support is crucial, since most of the measures available are planning measures as is the support of the Board of Selectmen or City Council.

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The preservation plan is a long term effort. Change, and the institution of development control measures can be a long, drawn out process in any town. So set yourself achievable goals, perhaps a general measure benefitting the entire town this year, a detailed measure for a particular neighborhood next year. Preservation planning is a cumulative process, one which requires a lot of effort but which the town will benefit from for years to come.



### 3. Community Selection

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The criteria for selecting the towns of Hadley and Belchertown as models for this planning project were as follows:

1. The status of the historical resources inventory within the town with preference given to completed inventory or inventory in progress. The inventory forms are the basis of information on which all further decisions regarding preservation planning must be made.
2. Degree of development pressure within the town, and the degree of present or potential impact of the development on historical resources.
3. The Historical Commission's degree of interest in the project and the willingness of the Commission members to work with the consultant on developing a preservation plan for their community.
4. Support for the project from within the community for example, the Board of Selectmen, the Planning Board, the Conservation Commission, other town boards and citizens groups.
5. A lack of professional planning staff, which signaled a lack of general planning efforts within the community. Both Hadley and Belchertown obtained the services of a full time Town Planner funded in part by the Executive Office of Communities and Development, shortly after or during this project.
6. The probability of the implementation of preservation strategies.

The two communities chosen, Hadley and Belchertown, are at present undergoing extreme development pressures, although each in a different fashion. The Town of Hadley is experiencing rampant commercial and industrial development along it's major transportation corridors, Route 9, Route 47 and Route 116. The Town of Belchertown, on the other hand is experiencing severe growth in its housing demand and attendant subdivision of land.

Both the Hadley and Belchertown Historical Commissions have expressed the need for a comprehensive historical preservation plan within their community. Both town's Town Commons, the hub of their history, have been impacted by rampant development. A realization of their town's problems on the part of town leaders and citizens have raised the citizen awareness of historic preservation issues, and gained support for preservation.





## 4. HADLEY

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Settled in 1659, Hadley has traditionally been an agricultural community. The town is covered with rich alluvial soils with 60% of its total land area composed of prime agricultural land. Eighteen percent of the town's 15,841 acres have been developed for residential, commercial and related land uses. During the past five to ten years, Hadley has seen increased growth in residential, business and industrial growth, to the extent that many citizens of the town feel that its character and quality of life as a rural agricultural community are quickly eroding.

From the census population characteristics (Appendix A), it is evident that Hadley's recent development pressures have sprung more from commercial than housing related developments. There has been a ten percent increase in total population, with a 36.2 percent increase in total households. While this is an appreciable increase in housing, it is lower than other areas in the region, and it also points to a decrease in household size. There has also been a 4.1 percent decrease in the number of commuters since 1970, indicating that Hadley's employment base has strengthened, although 77.3 percent of residents still commute to work. Employment figures also show a decrease in the farm and laborers pool, with a decrease of 44.2 percent since 1970. This points to a trend of a loss of farms and farmland production.

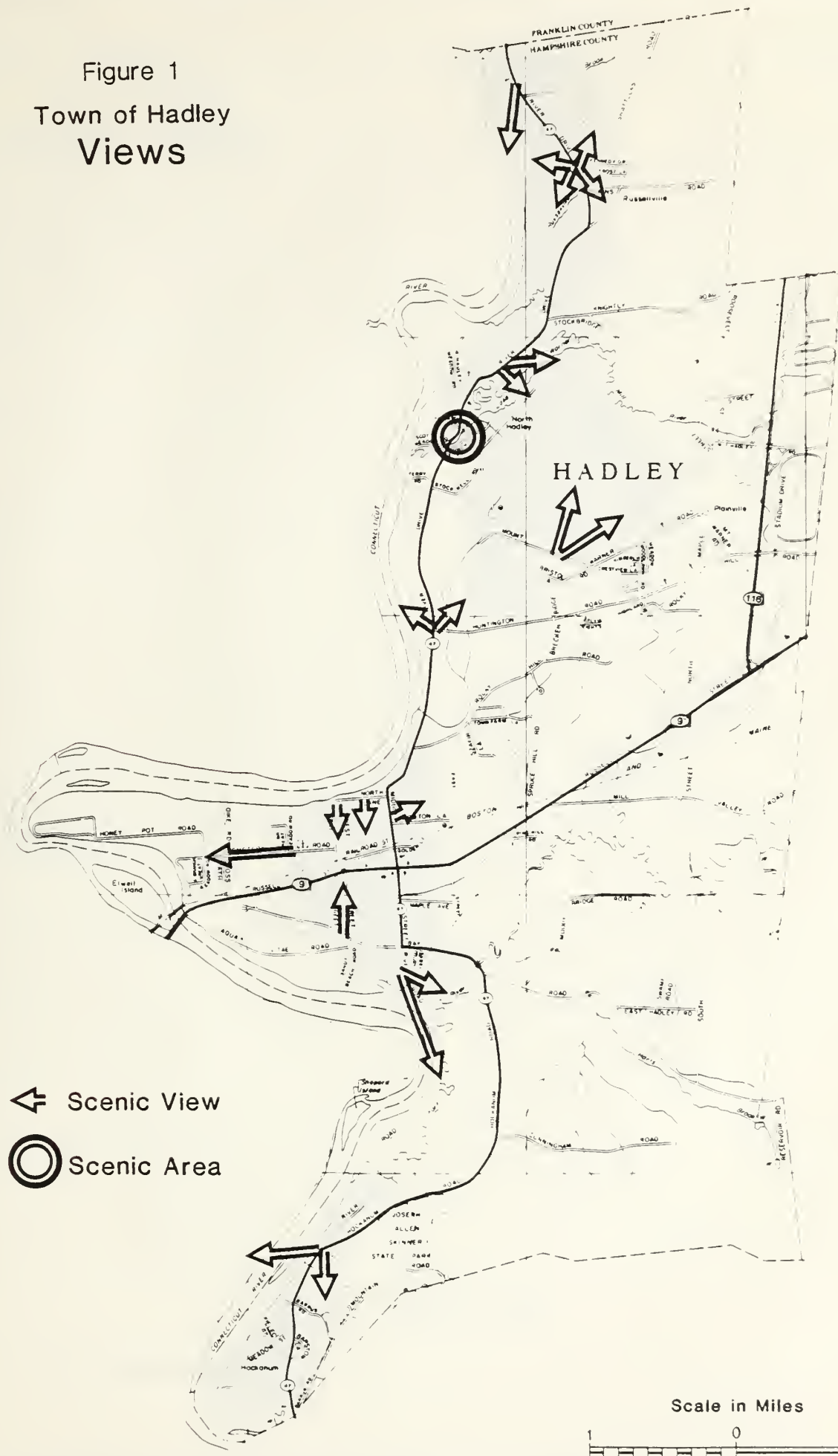
The major transportation routes through the town are the east-west Route 9 corridor, and the north-south Routes 47 and 116 corridors. Both Routes 9 and 47 converge on the historic town centre of Hadley, which has a large number of historical homes, a mile long town common, and prominent school and town buildings. This attractive and historic town center, with old homes located on the prominent Town Common, is presently under nomination to the National Register of Historic Places. In recent years, however, unattractive commercial strip development along Route 9 has plagued the town center.

One of the first challenges to implementing a historical resources preservation plan in the town of Hadley, is for the townspeople to realize just what it is that gives Hadley its character. People who have lived in their hometown for all of their lives rarely welcome change, and when it is as rapid as that in Hadley over the past ten years, the resistance to change becomes even more vocal. This is also true for those people who recently moved to Hadley to enjoy the quality of life in a rural town. Any development which threatens that perceived quality will be seen as negative. However, much as the old and new residents do not enjoy the change in Hadley, they realize on another level that new development is important to the town. Under the constraints of Proposition 2 1/2%, the Town is finding it increasingly difficult to provide the services and schools that the residents need. In order to make up this discrepancy in revenue and expenditure, the Town must court new commercial and industrial developments to provide badly needed funds. However, development need not be all bad, when proper consideration is given to how the development will fit into the existing community, and how it will impact the existing neighbourhood into which it is entering.





Figure 1  
Town of Hadley  
Views



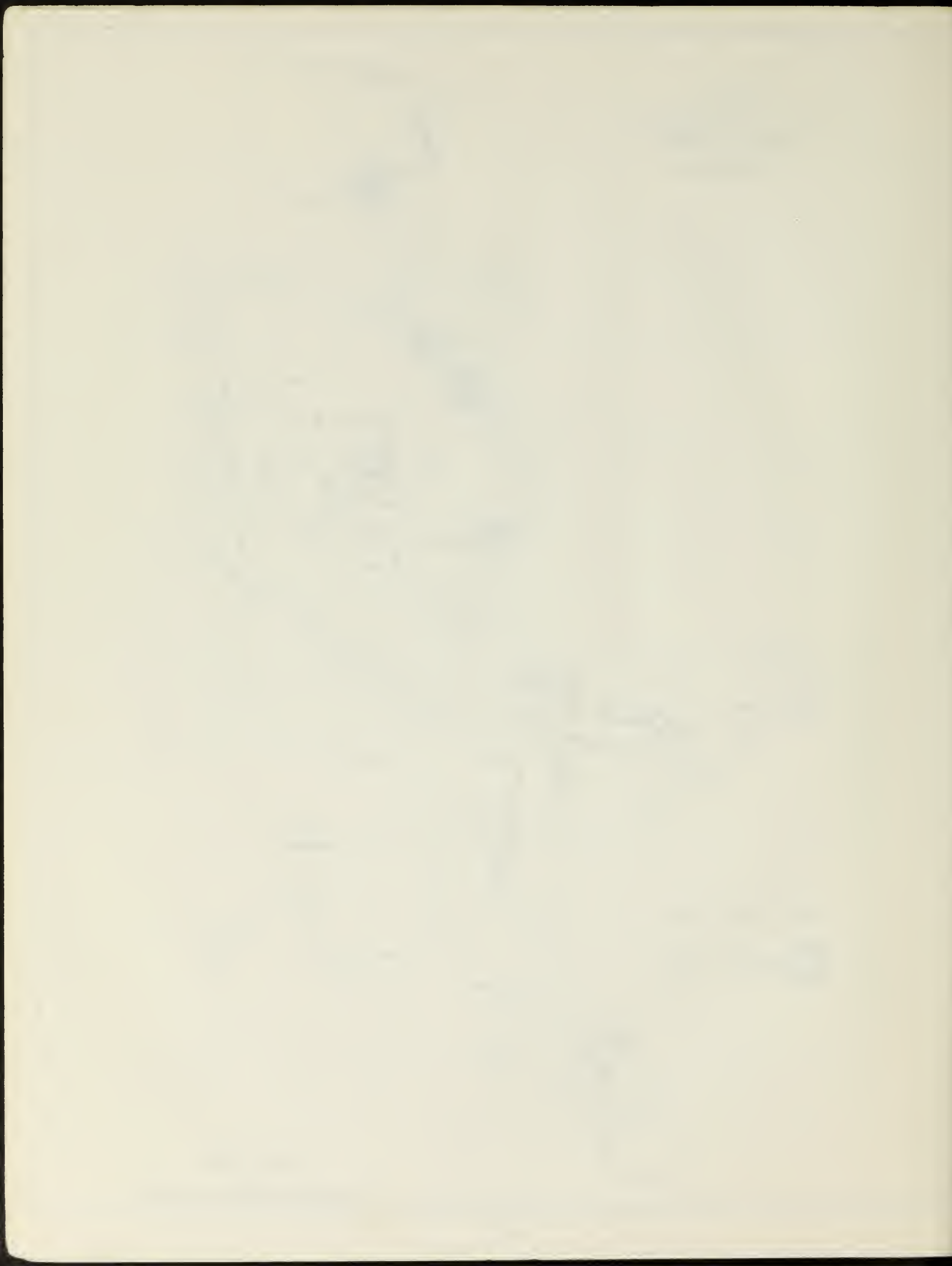
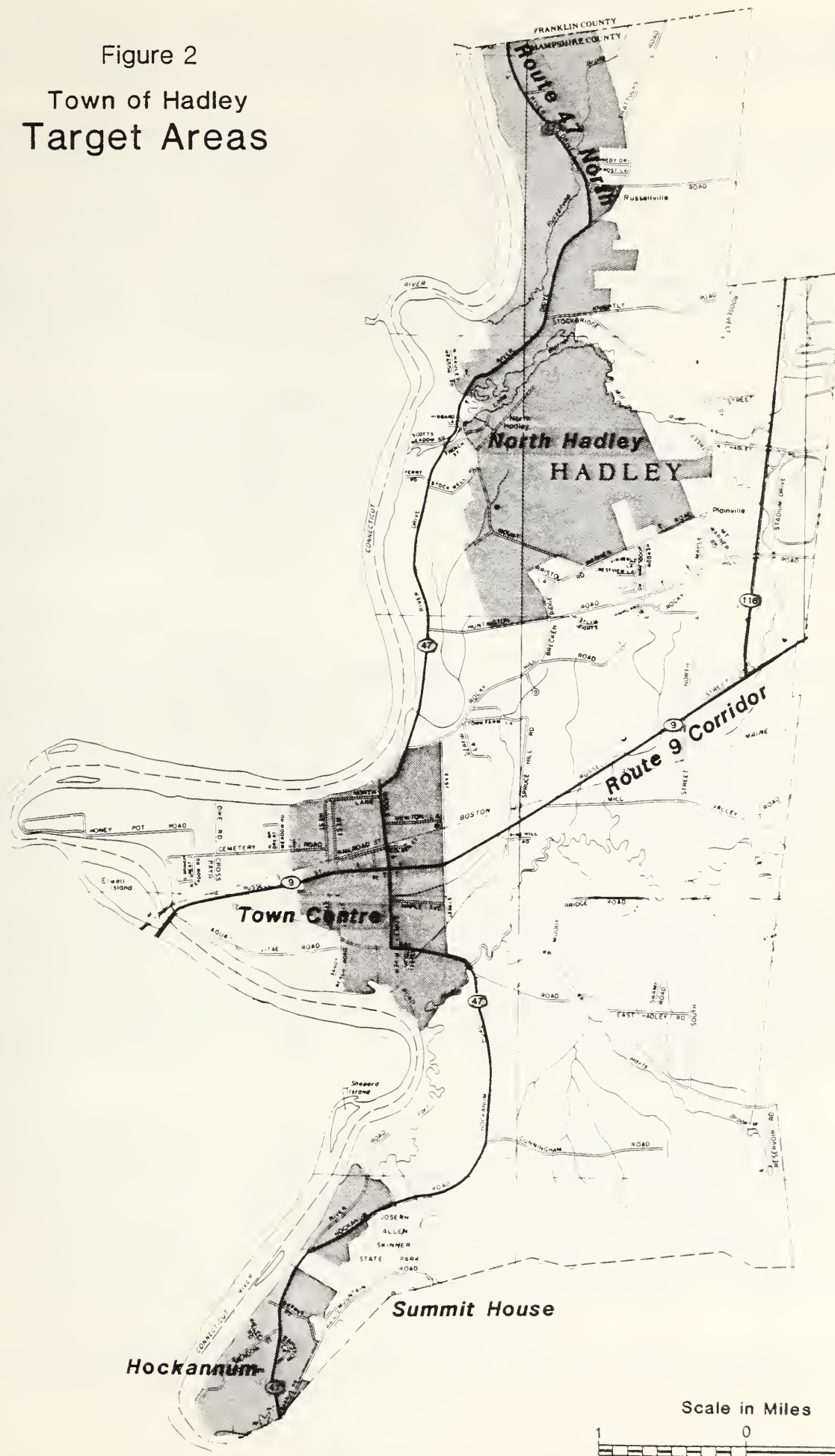


Figure 2  
Town of Hadley  
Target Areas







So we come to the question of character - How do you define the character of Hadley, and once you do define it, how do you ensure that future development will not negatively impact on the Town?

To address the question "What is Hadley?", the Historical Commission spent several meetings discussing the question, as well as a day driving around the town, looking at the features and discussing them as a group. Important aspects of Hadley's visual and historical quality noted (Figure 1) were the West Street Common, farmland in general, lake and river access, views of Mount Holyoke, and the tobacco barns. The most important realization at this time, though, was that the entire landscape, composed of buildings, natural features, trees and people, all contributed in some way to the character of the town. The preservation of the town's character could not be tied solely to the preservation of buildings in isolation.

From this scrutiny of the Town, a number of target areas for historic preservation planning in the town were identified. These are: the Town Centre, including west, Middle, and East streets; North Hadley, Route 47 North, Hockannum, the Summit House, and the Route 9 corridor (Figure 2). The following will identify the character of these target areas, their significant features, and potential methods which the town might employ to mediate development impacts.

#### 1. The Town Centre

This area (shown on Figure 3) is composed of three broad, parallel avenues running north and south, (West, Middle and East streets), lined with mature deciduous trees, and large, historic, single family residences, with long, thin lots of four to ten acres spanning the distances between parallel streets. This long lot system was set up by the original settlers to give everyone access to and frontage on the common, while providing farmland in close proximity to the homes. This early development has left a legacy today of broad tree lined streets, and agricultural or unused open space between the parallel north-south streets.

This unusual development of the town centre has provided Hadley with a unique, pastoral landscape, but has also left the landscape open to severe development pressure. Each existing house lot has a rather narrow frontage to the street, with a four to ten acre lot stretching out behind it. Therefore, although there is not enough frontage to meet the requirements of the zoning bylaws for infill development, when a single developer buys one or more lots with adequate frontage for a road, this opens up the land area between the streets to development.

There are both pros and cons to this type of development. From an historical landscape and aesthetic viewpoint, development of this land area would destroy the integrity of Hadley's historic landscape. Instead of having a uniquely rural town centre with large areas of open space between parallel strips of development, the town would become a typically clustered development. Gone would be the character that makes Hadley unique among all of the towns in the area. Gone would be part of the character that draws people to Hadley and identify it's rural character and quality of life.

On the other hand however, this is the part of Hadley that is serviced with town water and sewer, good roads and accessibility to major transportation





**Figure 3**

**Town of Hadley  
Town Centre**

**Legend:**

- RESIDENTIAL Multi-family (RM)
- AGRICULTURAL LAND Chap.61A Non Productive
- COMMERCIAL
- PUBLIC SERVICES
- VACANT LAND Potentially Developable Marginal to Undevelopable

Scale in Feet: 500 0 1000 2000





routes. These attributes all make the open parcels extremely attractive to development, and the development will not impact quite as heavily on the capital expenditures needed by the town to provide infrastructure, nor on its natural resources, especially groundwater. These attributes make it an extremely delicate question that the town will have to answer in the near future : At what price are we willing to give up our Town's heritage and character?

One method of voluntary preservation of this land which is available to the residents of the Town Centre, is the newly enacted Right to Farm Act. This act allows farmers holding these parcels to enter into a formal pact with their neighbours to keep the land in question in farmland production. These parcels may be viable for truck farming and fruit and vegetable production, however as large farms and mechanization take over the market and ensure more efficient production, this option for protection is going to become increasingly less viable.

The most useful method of preservation of this type of open space may be the use of large lot zoning. Zoning of residential developments to a minimum of four acres in this area would make the development of these parcels less attractive. It is possible to zone even larger lots, although a firm case would have to be made as to why this would be in the best interests of the town, or the zoning could be challenged on the grounds of unreasonable zoning requirements, especially with the proximity to water and sewer.

The most definite form of preservation for this area of land is also the most expensive: that of acquisition. Although the town could elect to buy the lots between West and Middle streets to keep them in open space for perpetuity for the Town's residents to use and enjoy, it would be an extremely expensive proposition for the Town. And, under the aforementioned conditions of 2 1/2, it is doubtful as to whether the town could afford to support this type of expenditure. In the same fashion, a land trust could be formed to buy the land, to hold it in trust as public open space. Again, this requires large amounts of cash. However, if landowners could be persuaded to donate parts of the land, place parts under preservation deed restrictions which run with the land in perpetuity, and voluntarily keep the rest of the land in agricultural production, it is possible that the open space could be preserved from development. (See Section VII for a detailed account of Land Trusts.)

Apart from maintaining the open space in the Town Centre, there is also the problem of protecting the existing historical structures from inappropriate renovations, alterations, and demolition. This can best be accomplished through the institution of a local historic district bylaw. The bylaw can be written as loosely or as strictly as possible according to Chapter 40A, regulating any proposed changes, additions or alterations to the exterior of a building within the district. The bylaw does not regulate the design of new structures, nor does it regulate the use of either new or existing structures. To regulate these areas, the town should use the newly instituted site plan review, and add a new type of zone to the zoning bylaw regulating business use in those areas zoned commercial. A limited business district could regulate signage, building square footage, parking and landscaping requirements, and ultimate use of the parcels of land in this area, more stringently than in other commercial districts. This type of control would help to protect the character of the town centre, as well as to increase the residents and tenants awareness that this is a distinctive area of historical merit.



## 2. North Hadley

North Hadley is the other major village in Hadley, clustered in a linear development along Route 47 North. It has retained its small, rural village atmosphere, along with the majority of its historical homes, town buildings and commercial establishments. In short, it is a village out of history. North Hadley is coming under development pressure from commercial developments which are stretching along the Route 47 N corridor as well as the residential subdivision occurring in the vicinity (Figure 4). The North Hadley Town Hall, the centerpoint of the community is also in jeopardy. At present it needs major renovations, both in terms of maintenance and weatherizing, since winter heating bills are a burden to the community. These could be done sensitively, however, with a lack of funds, chances are they will be done in an ad hoc manner, economics usurping esthetics.

There are various sources of money available for public buildings which are on the National Register, therefore the placing of this building on the register, within a district composed of North Hadley as a locus should become a high priority for the Historical Commission. Once on the National Register, the town could access funds under the Massachusetts Historical Commission Preservation Projects Fund, the National Trust, or a new potential source, that of a special pot of money to fund the renovation of Town Halls, presently being pursued by the Massachusetts Historical Commission.

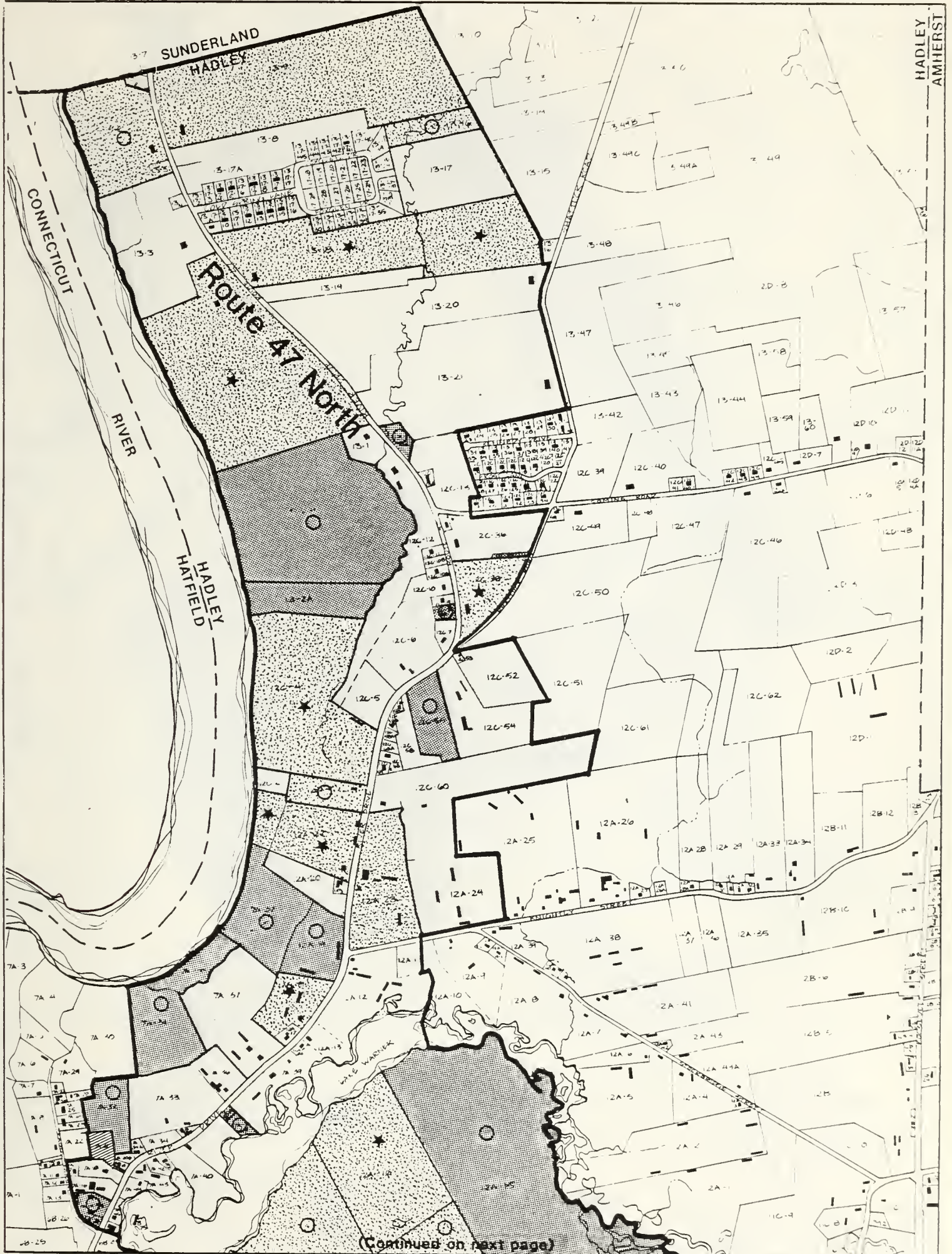
In general, there are several measures which can mediate the development of North Hadley. The new site plan review provisions will ensure that new development is in character with the surrounding area if the Historical Commission brings these concerns to the attention of the Planning Board when it is making decisions on a site plan. The same type of limited business district as outlined for Hadley Centre would be of help here, in order to regulate signage, additions to existing structures, types of use, landscaping and parking provisions. This will ensure that whatever developments take place here will be monitored by the town, and will fit in with the surrounding landscape. In this area, residential infill development on existing roadways should also be carefully monitored, and may come under expanded provisions of the limited business district. Setbacks, frontage requirements, lot sizes, and height of structure may be regulated in this area to ensure that new infill development will be in harmony with the existing structures and landscape.

A limited application of the local historic district bylaw may also be of some use in North Hadley. The bylaw could be set up to review new construction, additions to existing buildings and signage, but not some of the more detailed aspects of paint colour and landscaping. This would give some control over exterior renovations in the village and ensure its historical character, while not placing undue restrictions on the homeowners.

Farmland is the most important feature of the landscape surrounding North Hadley. Development of these farms into residential subdivisions or industrial parks would seriously detract from the character of the village itself. The Agricultural Land Preservation Program is the prime method of maintaining the land in agricultural use and should be encouraged. In addition, the clustering of development on other properties, sited so as to minimize the impact on the landscape, should also be encouraged. Hadley's zoning bylaws do not, at this time, allow cluster development.











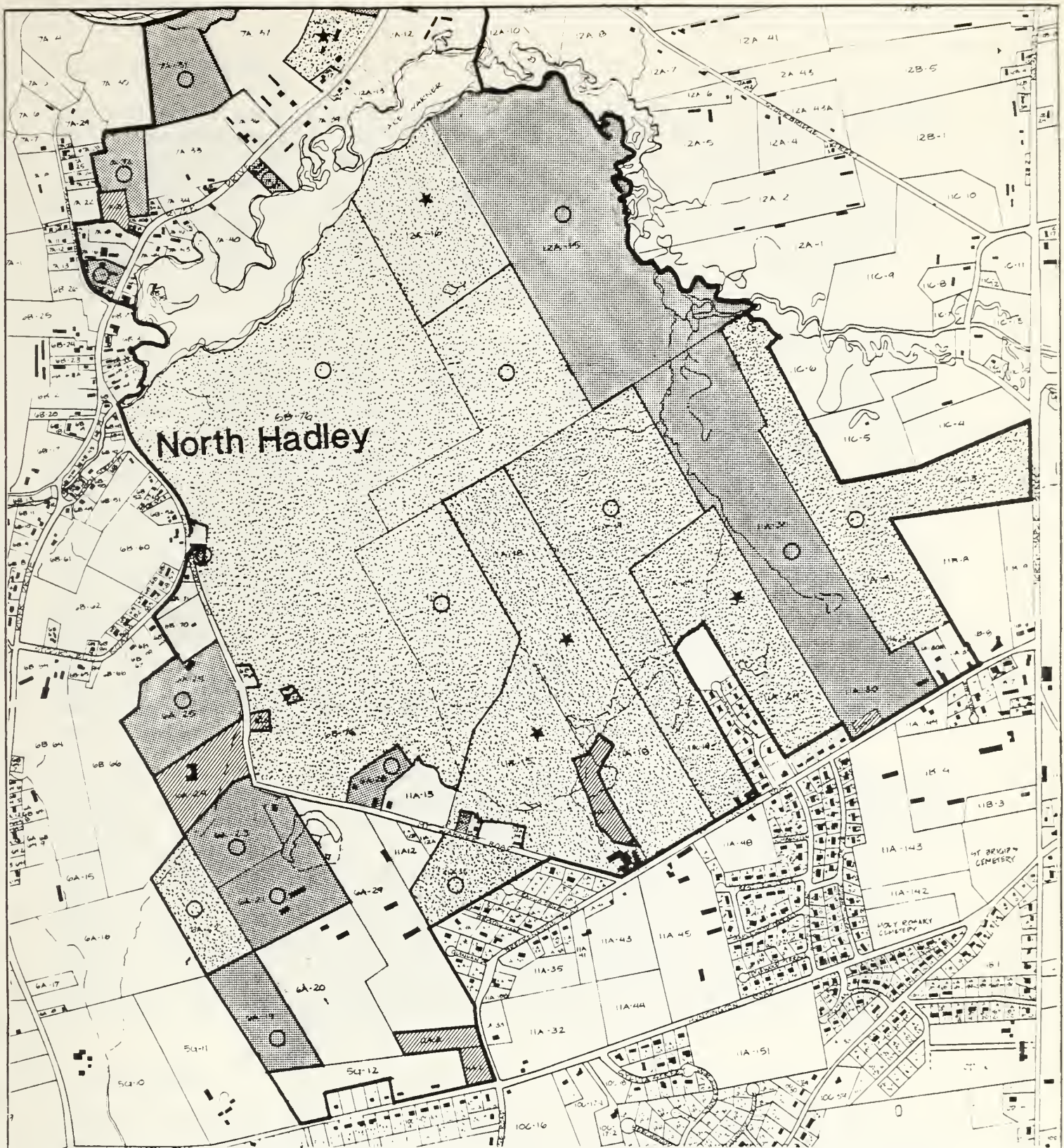
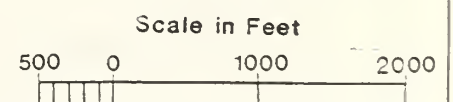
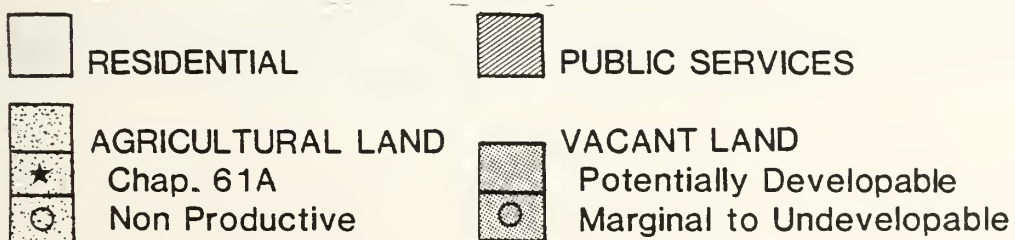


Figure 4  
Town of Hadley  
North Hadley







### 3. Route 47 North

Route 47 North has some of the most scenic views along its length in Hadley. It is a curving, country road, although in good condition and easily accessible as a major transportation route in Hadley. Presently its development is characterized by both single family subdivision along the existing roadway, with some larger subdivisions springing up on new roads put in off 47, and small commercial development. Presently, Route 47 is zoned commercial, with residential development allowed as a matter of right. However, as the area becomes more densely populated there is increasing friction among the residents and commercial establishments.

Due to the land's character of picturesque, rolling hills, terraces leading down to the Connecticut River, and fertile farmlands, and the prevalency of residential housing along this corridor, it seems appropriate to re-zone this strip from commercial to agricultural residential. If commercial developments are to remain along this corridor, and to flourish, then some tougher measures must be put into place to ensure the least amount of friction between the residential use and the commercial use, and to ensure the least amount of impact on the natural beauty of the landscape. Provisions such as limiting building height to two stories, requiring building setback from the road, parking in the rear, appropriate landscaping and buffers between the business and nearby residential, and requiring proper fencing of unsightly storage areas, will go a long way to mediating development. Site plan review does cover these concerns in part, although the scale of commercial development is small in this area, and many of the developments fall under the 3000 square foot maximum, below which site plan review does not apply. The provisions must also be enforced after the fact, since a fence, not maintained for a period of a few years, will become an eyesore in itself, and will cease to screen the areas behind.

The Agricultural Preservation Program, run by the Massachusetts Department of Food and Agriculture, is one program which may help to retain the agricultural character of this area of Hadley. Under this program, the farm owner receives a payment from the state of the difference between the price for his land which he could receive for development and the price he could sell it at as farmland. He is then only allowed to sell the property for farming purposes. There is a deed restriction which runs with the land for perpetuity and ensures that the property will remain farmland forever. There are voluntary forms of this program, where the owner places a deed restriction on his or her property, however is not paid for the resultant lack in potential income at the time of sale although there may be a payback through tax write offs.

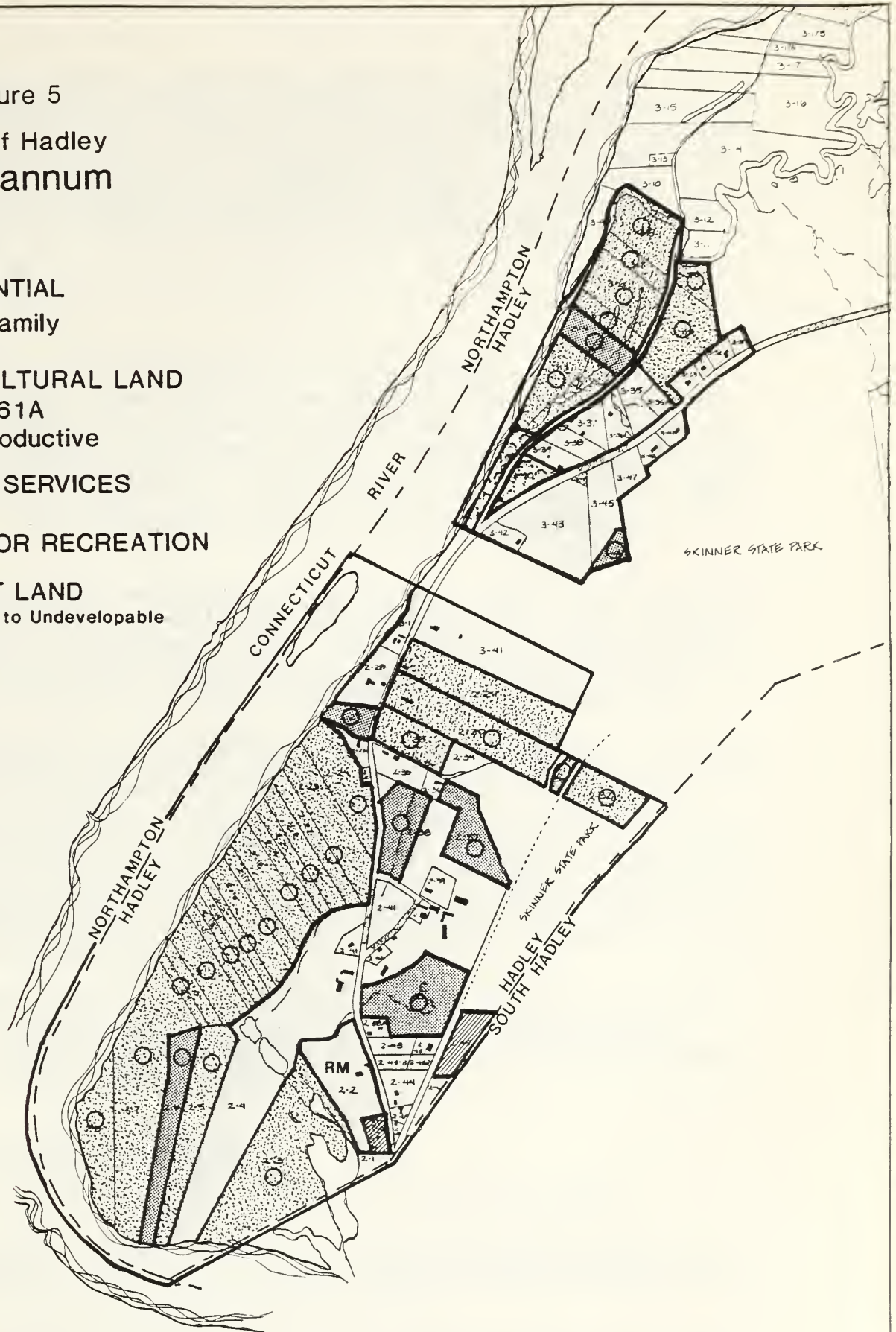
### 4. Hockannum.

The tiny village of Hockannum is located in the southwest corner of Hadley, at the base of the Holyoke range. It has a rural residential character, unique because of its proximity to the river and to Skinner State Park, run by the Department of Environmental Management. (Figure 5) The village has the potential of becoming a resort type community, or at the least, overrun with residential development. Although this has, as yet, not occurred to any great extent, the zoning of this area should be looked at rather closely, in order that development proceed in an orderly fashion.



Figure 5  
Town of Hadley  
Hockannum

- RESIDENTIAL
- RM. Multi-family
- AGRICULTURAL LAND
- ★ Chap. 61A
- Non Productive
- PUBLIC SERVICES
- OUTDOOR RECREATION
- VACANT LAND
- Marginal to Undevelopable



Scale in Feet  
500 0 1000 2000





The use of conservation and preservation deed restrictions would be particularly appropriate, as would the application of the Agricultural Lands Preservation program. Scenic easements, and conservation easements would aid in the protection of land use for recreation purposes, as well as providing access to the river in this area. In addition, large lot residential development may be attractive in this area, as opposed to condominium, since this would retain the character of the area to a greater degree.

## 5. The Route 9 Corridor

The Route 9 corridor is characterized by strip development encroaching on historical residential areas and a few remaining expanses of farmland. To many people in Hadley, this corridor is a lost cause, with large amounts of insensitive development, and too much traffic. Notwithstanding the fact that Route 9 cuts through the middle of Hadley center and bisects the town Common, the route 9 corridor is the first, only and lasting impression that visitors have of Hadley. It is here that Hadley's outside image may be made or broken.

To the west, between the Coolidge Bridge and the Town Common, there remain a number of beautiful views of the scenic Holyoke range to the south. These are historical as well as contemporary views, since many artists, photographers, and writers have publicized them, especially during the Victorian period. The loss of these views would be extremely detrimental to the image of Hadley.

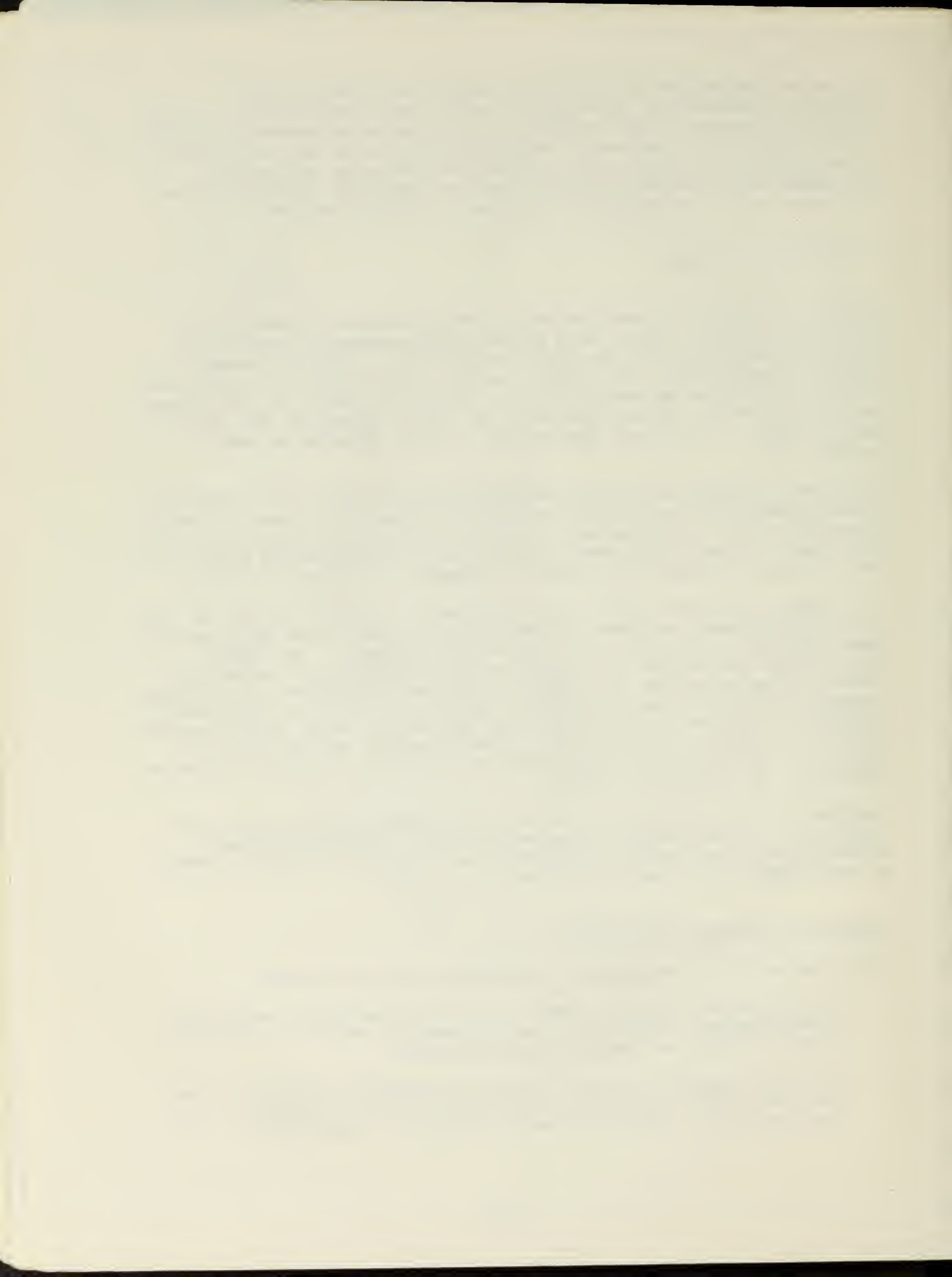
It is beyond the scope of this project to comment in specific on all the ills of strip development, but there are measures which can be taken by a concerned town to mediate the problems and visual blight on Route 9. The recently employed site plan review is a good mechanism whereby the Town can enforce certain minimum guidelines for design in this area. Guidelines could include recommended building setback, parking in the rear of buildings, placement of buildings on lots and in relation to other buildings to maximize the views and suitable landscaping to enhance the corridor in general and the views in particular. Once developed, these guidelines should be published to serve as a guideline for developers to follow.

The Town may also adopt more stringent zoning setback, frontage, and height regulations. By decreasing maximum height allowed, increasing minimum setbacks, and increasing minimum frontage requirements, the scale and density of developments may be kept to a minimum.

## Preservation Strategies Implemented

The following three strategies were implemented during the project:

1. National Register district nomination for the Town center, which will provide honorary status as well as Environmental Review protection with respect to state and federally funded projects.
2. The establishment of a local district study committee which will study the potentials of creating a local historic district ordinance for the Town center area. This will provide a measure of control over



inappropriate exterior alterations to historic properties. The study committee was set up in January, 1986, and will present their findings and a proposed ordinance to the 1987 Town Meeting.

3. The revision of the Site Plan Review Bylaw in order to strengthen the powers of the Town over insensitive development, and to incorporate historical concerns into the review. The proposed Site Plan Review bylaw is attached (Appendix B). It received approval by the Planning Board, and was presented to the Board of Selectmen in mid April for inclusion on the warrant of the Special Town Meeting in June. Town Meeting passed the bylaw unanimously.





*Appendix A*  
*Hadley*  
*Census Statistics*



# HADLEY

## Population Characteristics

	1980		1970		1970-1980 Change	
	#	%	#	%	#	%
Population	4125	100.0%	3750	100.0%	375	10.0%
White	4086	99.1%	3738	99.7%	348	9.3%
Black	18	0.4%	1	0.0%	17	1700.0%
Non-white	21	0.5%	11	0.3%	10	90.9%
Hispanic	25	0.6%				
All-ages						
0-4	202	4.9%	250	6.7%	-48	-19.2%
5-9	253	6.1%	301	8.0%	-48	-15.9%
10-14	281	6.8%	294	7.8%	-13	-4.4%
15-19	287	7.0%	391	10.4%	-104	-26.6%
20-24	407	9.9%	383	10.2%	24	6.3%
25-29	420	10.2%	259	6.9%	161	62.2%
30-34	364	8.8%	159	4.2%	205	128.9%
35-39	276	6.7%	179	4.8%	97	54.2%
40-44	183	4.4%	218	5.8%	-35	-16.1%
45-49	175	4.2%	264	7.0%	-89	-33.7%
50-54	220	5.3%	300	8.0%	-80	-26.7%
55-59	266	6.4%	221	5.9%	45	20.4%
60-64	285	6.9%	140	3.7%	145	103.6%
65-69	192	4.7%	92	2.5%	100	108.7%
70-74	127	3.1%	105	2.8%	22	21.0%
75+	187	4.5%	194	5.2%	-7	-3.6%
Persons under 18	908	22.0%	1105	29.5%	-197	-17.8%
Persons 65+	506	12.3%	391	10.4%	115	29.4%
Median age	32.9		30.8		2.1	6.8%
Males	2045	49.6%	1915	51.1%	130	6.8%
Females	2080	50.4%	1835	48.9%	245	13.4%





## HADLEY

Housing  
Characteristics

	1980		1970		1970-1980 Change	
	#	%	#	%	#	%
Year-round units	1588	100.0%	1236	100.0%	352	28.5%
Vacant Units	51	3.2%	52	4.2%	-1	-1.9%
Boarded up	11	0.7%				
Occupied units	1511	95.2%	1184	95.8%	327	27.6%
Owner occ.	1125	74.5%	868	73.3%	257	29.6%
Renter occ.	368	24.4%	316	26.7%	52	16.5%
Units						
before 1939	626	39.4%	671	54.3%	-45	-6.7%
# of units						
in structure						
all units	1544	100.0%	1211	100.0%	333	27.5%
1 units	1290	83.5%	955	78.9%	335	35.1%
2-4 units	146	9.5%	256	21.1%	-110	-43.0%
5-9 units	98	6.3%				
10+ units	10	0.6%				
Median Contract						
of renter						
occ. units(\$)	220		88		132	150.0%
Median						
gross rent(\$)	287		127		160	126.0%
Median value						
owner occ.(\$)	53000		22700		30300	133.5%
# of persons						
in units						
all units						
1	286	18.9%	174	14.7%	112	64.4%
2	515	34.1%	351	29.6%	164	46.7%
3	269	17.8%	226	19.1%	43	19.0%
4	233	15.4%	206	17.4%	27	13.1%
5	129	8.5%	117	9.9%	12	10.3%
6+	61	4.0%	110	9.3%	-49	-44.5%
Median # of						
persons in units	2.39		2.8		-0.41	-14.6%
Year householder						
moved						
into unit						
all households						
1979-March 1980	198	13.1%				
1975-1978	365	24.2%				
1970-1974	182	12.0%				
1960-1969	305	20.2%	329	26.6%	-24	-7.3%
1959-	461	30.5%	907	73.4%	-446	-49.2%



## HADLEY

Social  
Characteristics

	1980		1970		1970-1980 Change	
	#	%	#	%	#	%
Households	1511	100.0%	1109	100.0%	402	36.2%
Families	1091	72.2%	971	87.6%	120	12.4%
married-couple	922	61.0%	831	74.9%	91	11.0%
w/child under 18	417	27.6%	410	37.0%	7	1.7%
Other than married-couple w/child under 18						
Female headed households						
w/child under 18	52	3.4%	47	4.2%	5	10.6%
Mean person per household	2.74		3.13		-0.4	-12.5%
Persons in group quarters	35	0.8%	44	1.2%	-9	-20.5%
Residence 5 yrs. earlier-						
All persons 5 yrs.	3923	100.0%	3500	100.0%	423	12.1%
Same house	2543	64.8%	2184	62.4%	359	16.4%
Different house						
In SMSA or county	741	18.9%	585	16.7%	156	26.7%
Outside SMSA or county	687	17.5%	464	13.3%	223	48.1%
Abroad	63	1.6%	72	2.1%	-9	-12.5%
H.S. graduates	1053	25.5%	674	18.0%	379	56.2%
College grad.	738	17.9%	301	8.0%	437	145.2%
Trans. to work						
Place of work						
Work in area of residence	474	21.4%				
Work outside area of residence	1715	77.3%	1789	98.9%	-74	-4.1%
Means of Trans.						
Drive alone	1523	68.6%	1303	72.0%	220	16.9%
Carpool	393	17.7%	186	10.3%	207	111.3%
Public trans.		0.0%	6	0.3%		
# of vehicles per house	1511	100.0%	1184	100.0%	327	27.6%
0	71	4.7%	169	14.3%	-98	-58.0%
1	496	32.8%	512	43.2%	-16	-3.1%
2	504	33.4%	371	31.3%	133	35.8%
3+	440	29.1%	132	11.1%	308	233.3%





HADLEY

Economic  
Characteristics

	1980		1970		1970-1980 Change	
	#	%	#	%	#	%
Persons 16+	3437	100.0%	2790	100.0%	647	23.2%
Labor Force 1979						
Employed	2219	64.6%	1809	64.8%	410	22.7%
Unemployed	69	2.0%	47	1.7%	22	46.8%
Not in Labor For	1149	33.4%	934	33.5%	215	23.0%
Occupations						
Prof.@ Tech.	492	22.2%	338	18.7%	154	45.6%
Executive, admin						
manger	195	8.8%	116	6.4%	79	68.1%
Sales	332	15.0%	54	3.0%	278	514.8%
Admin. support						
@ clerical	342	15.4%	281	15.5%	61	21.7%
Precision prod.						
craftsmen	218	9.8%	242	13.4%	-24	-9.9%
Oper., Fabric.						
transport	149	6.7%	240	13.3%	-91	-37.9%
Labors, farm,						
other blue collar	163	7.3%	292	16.1%	-129	-44.2%
Service workers						
priv. household	328	14.8%	246	13.6%	82	33.3%
Not reported						
Industry						
Const.	77	3.5%	123	6.8%	-46	-37.4%
Manufac.	216	9.7%	237	13.1%	-21	-8.9%
Trans.	70	3.2%	37	2.0%	33	89.2%
Comm., util.						
sanitary	35	1.6%	50	2.8%	-15	-30.0%
Wholesale	53	2.4%	42	2.3%	11	26.2%
Retail	296	13.3%	254	14.0%	42	16.5%
Fin., ins.						
real estate	100	4.5%	74	4.1%	26	35.1%
Services	1173	52.9%	603	33.3%	570	94.5%
Public Admin.	83	3.7%	68	3.8%	15	22.1%
Other	116	5.2%	321	17.7%	-205	-63.9%
Median Income(\$)						
Household	20896					
Family	23986		11514		12472	108.3%
Unrelated indiv	5686		2561		3125	122.0%
Per cap. income(\$)	7734		3481		4253	122.2%
% below poverty						
Persons	263	6.2%	371	9.9%	-108	-29.1%
Families	20	1.8%	83	8.5%	-63	-75.9%
Unrelated indiv	193	4.6%	114	3.0%	79	69.3%



*Appendix B*  
*Site Plan Review*





A GUIDE TO PROCEDURES FOR AMENDMENT OF A ZONING BY-LAW BY A TOWN  
according to the Zoning Act, effective January 1, 1976

STEP 1

The parties at the right may initiate a change in a Town's zoning by-law.

- Board of Selectmen
- Planning Board
- Zoning Board of Appeals
- an individual owning land to be affected by the change
- registered voters of a Town (Ch. 39, Sec. 10)
- Lower Pioneer Valley Regional Planning Commission

The proposed change is submitted first to the Board of Selectmen.

STEP 2

Within 14 days, the Board of Selectmen must submit the proposed change to the Planning Board.

STEP 3

Within 65 days, the Planning Board must schedule a public hearing.

STEP 4

Within 21 days, the Planning Board may submit a report with recommendations on the proposed change to Town Meeting, or, if 21 days pass without submission of such a report, Town Meeting may adopt, reject or amend the proposed change. Vote required is 2/3.

If Town Meeting fails to vote to adopt any proposed by-law amendment within 6 months after the public hearing, no action shall be taken on the proposed amendment until after another public hearing.

STEP 5

When Town Meeting votes to adopt the change, the Town Clerk shall submit the amendment for approval within 15 days to the Attorney General.

STEP 6

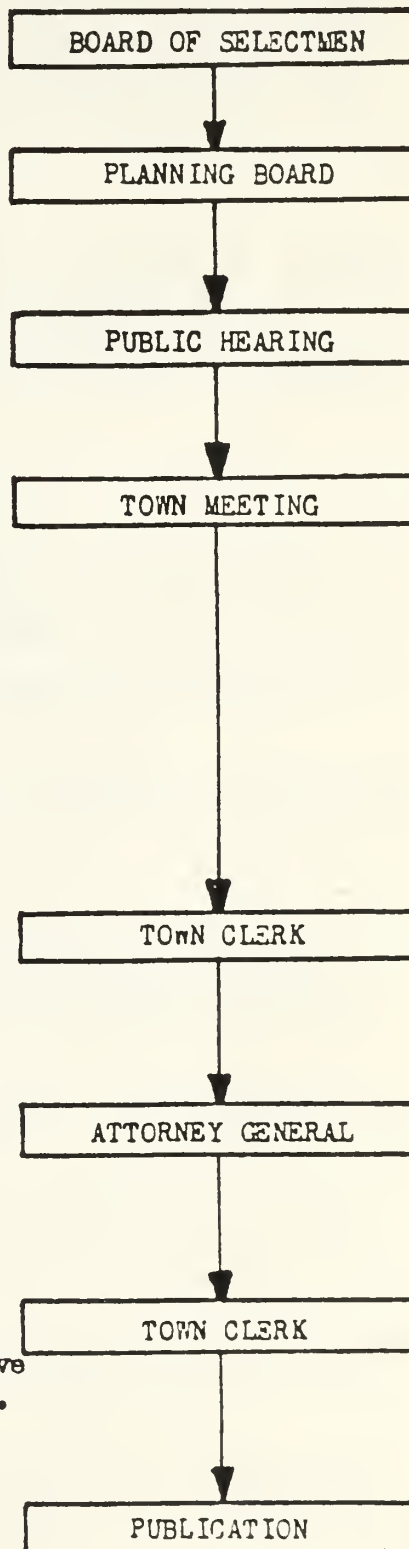
The amendment is deemed to be approved if 90 days pass without action by the Attorney General after the Town Clerk has submitted it for approval.

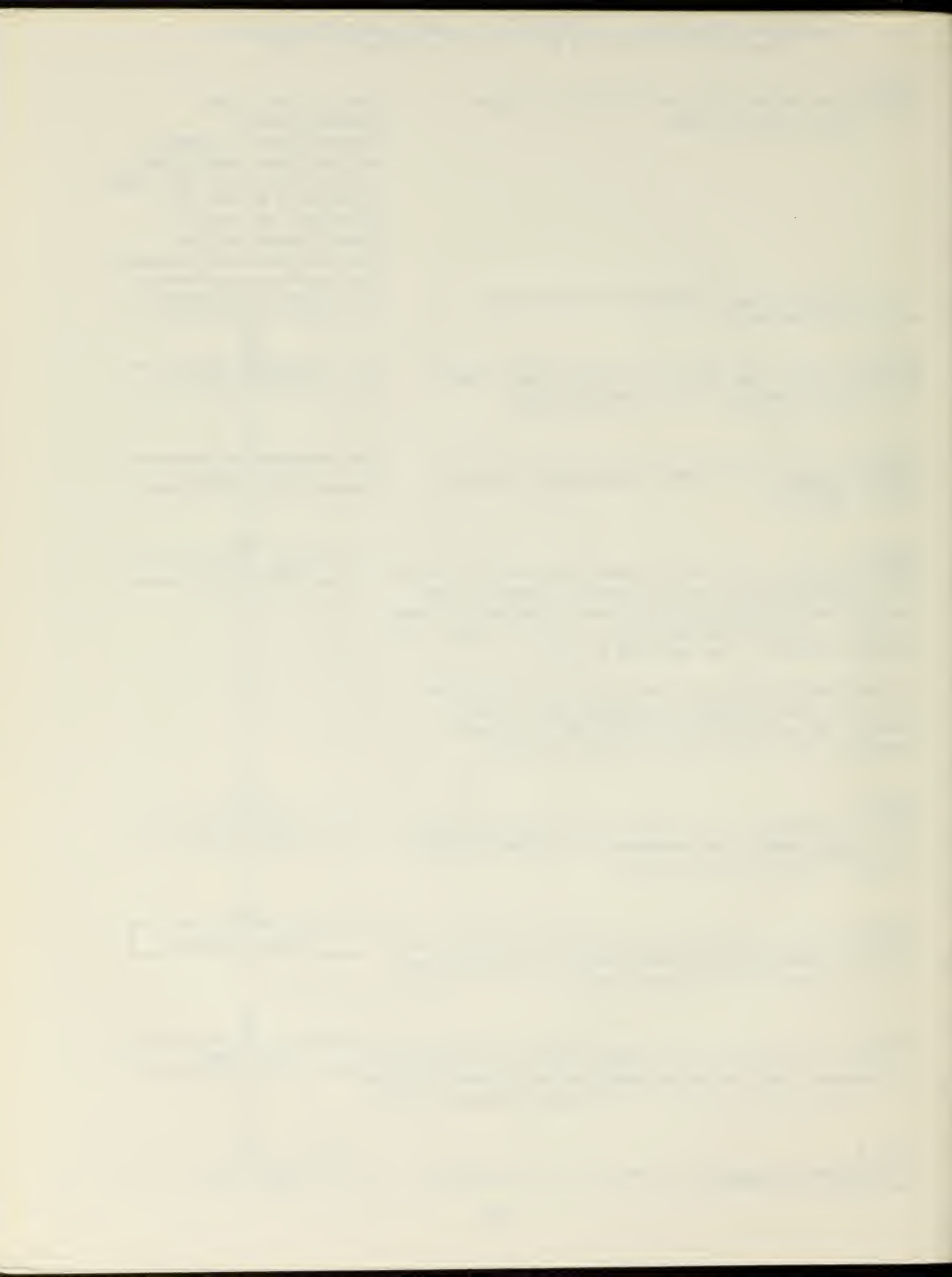
STEP 7

In such case, the Town Clerk shall enter in the records a statement that the by-law amendment has become effective by reason of the failure of the Attorney General to act.

STEP 8

The amendment shall be published in a Town pamphlet, newspaper or bulletin.





## Proposed Site Plan Review

### A. Purpose

This section is enacted under the authority of Chapter 40A of the Massachusetts General Laws to accomplish the purposes of protecting the health, safety, convenience and general welfare of the inhabitants of the Town of Hadley. The site plan review regulates the use of structures and sites in a manner which considers the protection of abutting properties and visual amenities; convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas; adequacy of methods of disposal of wastes and surface water drainage; and the protection of historical and natural environmental features on the site and in adjacent areas.

### B. Projects Requiring Site Plan Review

No permit for the construction, exterior alteration, relocation, occupancy or change in use of any building shall be given and no business or industrial use shall hereafter be established or expanded in ground area except in conformity with a site plan bearing an endorsement of approval from the Planning Board.

### C. Exemption From Site Plan Review

Site plan review shall not be required for:

1. the construction or enlargement of any single family or two family dwelling or building accessory to such dwelling;
2. or any building used exclusively for agriculture, horticulture or floriculture; or,
3. construction or alteration involving not more than 3000 sq. feet total floor area after construction.

### D. Contents of Site Plan

A site plan shall be prepared by a Registered Professional Engineer, Landscape Architect or Architect at a scale of 1 inch equals 20 feet on standard 24" x 36" sheets and continuation on 8 1/2" x 11" sheets as necessary for narrative.

The site plan shall include the following data, detail and supporting plans:

1. Name of the project, locus, boundaries, date and scale of the plan.
2. Name and address of the owner of record, developer, and seal of the engineer, landscape architect or architect.
3. Name and addresses of all owners of record of abutting parcels and those within three hundred (300) feet of the property line.
4. All existing lot lines, easements, rights-of-way, size in acres or square feet, abutting land uses and location and use of structures within the three hundred (300) feet of the site.





5. The location and use of all existing and proposed buildings and structures within the site plan, including dimensions and height, and showing exterior entrances, exits and all anticipated future additions or alterations.
6. Location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, buffers for screening purposes, paths, landscaping, lighting fixtures, planting areas, walls, signs, service areas, refuse and other waste disposal containers.
7. Location of all present and proposed utility systems including sewage or septic system, water supply system, existing and proposed surface and subsurface drainage systems, telephone, cable and electric lines. Storm drainage system will include existing and proposed drainlines, culverts, drainage swells, catch basins, headwalls, endwalls, hydrants, manholes, channels, and subdrainage along with soil logs, percolation tests when necessary, and drainage calculations.

The applicant shall submit plans to prevent the pollution of surface or groundwater, erosion of soil, excessive run-off precipitation, excessive raising or lowering of the water table and flooding of other properties.

8. Existing and proposed topography at a two foot contour level. Sufficient information to indicate areas in the site and within 50 feet of the site where gravel removal or filling is proposed and the approximate volume in cubic yards. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the floodplain overlay district (Zones A1-30 F.I.R.M.), the area will be delineated on the plan document, and base flood elevations at the site provided.
9. A landscape plan showing all existing natural land features, trees, forest coverage and water sources, and all proposed changes to these features including size and type of plant material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.
10. Zoning District boundaries within five hundred (500) feet of the site's perimeter shall be drawn and identified on the plan. Floodplain boundaries and the square feet within this district shall be shown.
11. Existing and proposed business signs and traffic signs located on site and within one hundred feet of the site, and the size, dimension, height, color, and illumination of all signs.
12. A traffic study to include:
  - a. Traffic flow patterns within the site, egresses and entrances, loading and unloading areas, and curb cuts on site and within one hundred feet of the site.
  - b. Traffic impact - the projected number of motor vehicle trips to enter or depart from the site shall be estimated for daily hour and peak hour traffic levels.
  - c. A projected traffic flow pattern for both vehicular and pedestrian access shall be described and related to the site plan, including



vehicular movements at all major intersections likely to be affected by the proposed use of the site.

- d. The impact of this traffic upon existing abutting public and private ways in relation to road capacities. Existing and proposed daily hour and peak hour traffic levels will be given and road capacity levels.
  - e. As a result of sub paragraph items 1-4 above, the Planning Board may request a plan to implement the improvements needed to provide for the free flow of traffic in areas surrounding the site and identified by the Planning Board as impacted by the proposed uses.
13. A plan for the control of erosion, dust, and silt, both during and after construction. Such plan shall include all existing and proposed slopes, construction sequencing, temporary and permanent erosion control, and protection of water bodies.
  14. For alterations to any existing or new business/commercial/industrial uses a table containing the following information:
    1. Maximum area of building to be used for selling, offices, business, industrial or other uses.
    2. Maximum number of employees where applicable.
    3. Maximum seating capacity where applicable.
    4. Number of parking spaces existing or required for the intended use.
  15. Elevation plans at a scale of  $1/4" = 1'0"$  for all exterior facades of the proposed structure(s) and/or existing facades plus addition(s) showing design features and indicating the type and color of materials to be used.

#### E. Procedure

1. An applicant for site plan review under this section shall file with the Planning Board at a regularly scheduled meeting, five (5) copies of each of the site plan documents. The Planning Board Chairman shall acknowledge receipt of said plans by endorsing thereon his signature and the date of receipt. A copy of the application shall be given to the Town Clerk by the applicant.
2. The Board shall obtain with each submission a deposit sufficient to cover any expenses connected with the public hearing and review of plans. The Planning Board has the right to retain a Registered Professional Engineer to advise the board on any or all aspects of the site plan. The costs of this engineering study will be borne by the applicant.
3. The Planning Board shall transmit to the Conservation Commission, Board of Health, Historical Commission and Building Inspector, and other boards as deemed necessary, copies of the site plan documents. The boards have up to forty-five (45) days to submit recommendations in writing to the Planning Board concerning:





- a. the adequacy of the data and methodology used by the applicant to determine the impacts of the proposed development;
- b. the effects of the projected impacts of the proposed development; and
- c. recommend conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.

Failure of an agency to report within the allotted time shall be interpreted a non-opposition to the project.

4. The Planning Board shall hold a public hearing within sixty-five (65) days of the receipt of an application and shall take final action within ninety (90) days from the time of hearing as provided in MGL Chapter 40a, Section 9 and 11. The Planning Board's final action in writing shall consist of either:
  1. approval of the site plan based on a determination that the proposed project will constitute a suitable development and is in compliance with the standards set forth in this bylaw;
  2. disapproval of the site plan based on a determination that the proposed project does not meet the standards for review set forth in this bylaw; or
  3. approval of the project subject to any conditions, modifications and restrictions which will ensure that the project meets the Standards for Review.

#### F. Standards for Review

The Planning Board shall review the site plan and supporting data taking into consideration the reasonable fulfillment of the following objectives:

1. Conformance with the provisions of the bylaws of the Town of Hadley, the General Laws of Massachusetts and all applicable rules and regulations of state and federal agencies.
2. Protection of Town amenities and abutting properties through the minimizing of any detrimental or offensive uses or destruction of unique or important natural, scenic, or historic features on the site;
3. Convenience and safety of vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties;
4. Adequacy of the methods of disposal of sewage and refuse and the drainage of surface and subsurface water;
5. Adequate means of protecting wetlands, watersheds, aquifers and well areas;
6. The demands placed upon Town services and infrastructures;
7. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, parking, lighting and internal traffic control;



8. Applicant's efforts to integrate the development into the existing landscape through design features such as vegetative buffers, and retention of open space or agricultural land;
9. Minimization of the area over which existing vegetation is to be removed. Where tree removal is required, special attention is to be given to the planting of replacement trees;
10. The consistency of the development with respect to setback, area, placement of parking, architectural style and landscaping of the surrounding buildings and development.

G. Enforcement

1. The Planning Board may require the posting of a bond to assure compliance with the plan and conditions and may suspend any permit or license when work is not performed as required.
2. Any special permit issued under this section shall lapse within one (1) year if a substantial use thereof has not commenced sooner except for good cause. The time required to pursue and await determination of a judicial appeal pursuant to Chapter 40a of the General Laws shall be included within the one (1) year time limit.
3. The Planning Board may periodically amend or add rules and regulations relating to the procedures and administration of this section.

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## 5. BELCHERTOWN

Belchertown is a 54.17 square mile semi-rural residential community, the largest land area of any town in the Hampden and Hampshire county region, with rough, hilly terrain, and elevations of up to 1,000 feet. Belchertown's past development has been based on an agricultural economy of dairying and fruit orchards, although in recent years, this base has been eroding. In its stead has come an influx of single family development which threatens to overwhelm both the landscape and the town's strained resources.

The rapid residential expansion of the past ten years can be attributed to several facts which make Belchertown extremely attractive to prospective home buyers. The major factor causing this influx of home buyers is due largely to the inflation of real estate and housing prices in the Springfield-Holyoke-Chicopee and Amherst areas, driving the cost of a single family home out of range of most first time home buyers. At the same time, the decline of farming has left large tracts of land open and available for development. An excellent system of highways linking Belchertown to major centres in the valley has also added to the influx of residents, turning Belchertown into a commuter town. Between 1970 and 1980, there was an increase of 34% in commuters, from a 1970 figure of 1,659 to a 1980 figure of 2,515, making up the majority of the 40% increase in the population during the same period (Appendix C). The major roads in Belchertown are Route 181 from Belchertown centre to Palmer, Route 9 leading from Ware to Amherst and Northampton, and Route 202 running south from Belchertown centre to Holyoke to intersect Route 91, and from the town centre north to Pelham and Shutesbury.

In light of recent growth figures, an increase of 40% in the population over the past 10 years, and the increasing interest in development being exhibited, the residents of the community have expressed a need for immediate action to protect the vital natural resources of the town. Concern was expressed at the 1985 Town Meeting regarding the rapid construction of new homes in the agricultural districts of the town. It was observed that rapid, uncontrolled growth was having an impact on groundwater purity, open space areas, and the rural/agricultural heritage of the community. A Controlled Growth Committee was established to study the problem and report to the 1986 Town Meeting a "means for orderly growth while regarding the town's rural heritage by protecting active farming and assuring open space, and while guarding against contaminating groundwater."

In conjunction with the Controlled Growth Committee's efforts and the efforts of the Agricultural Lands Preservation study group, the Historical Commission was interested in taking a closer look at the historical resources of the Town and potential methods for their protection. The Historical Commission spent several meetings discussing the character of the Town and it's historical resources, and also spent several hours driving around the Town critically assessing the Town's assets (Figure 6). The important areas in Belchertown, upon which the Historical Commission placed priorities for preservation are: 1) the farm roads and farm lands, many of which present spectacular views and which are the basis of the character of Belchertown

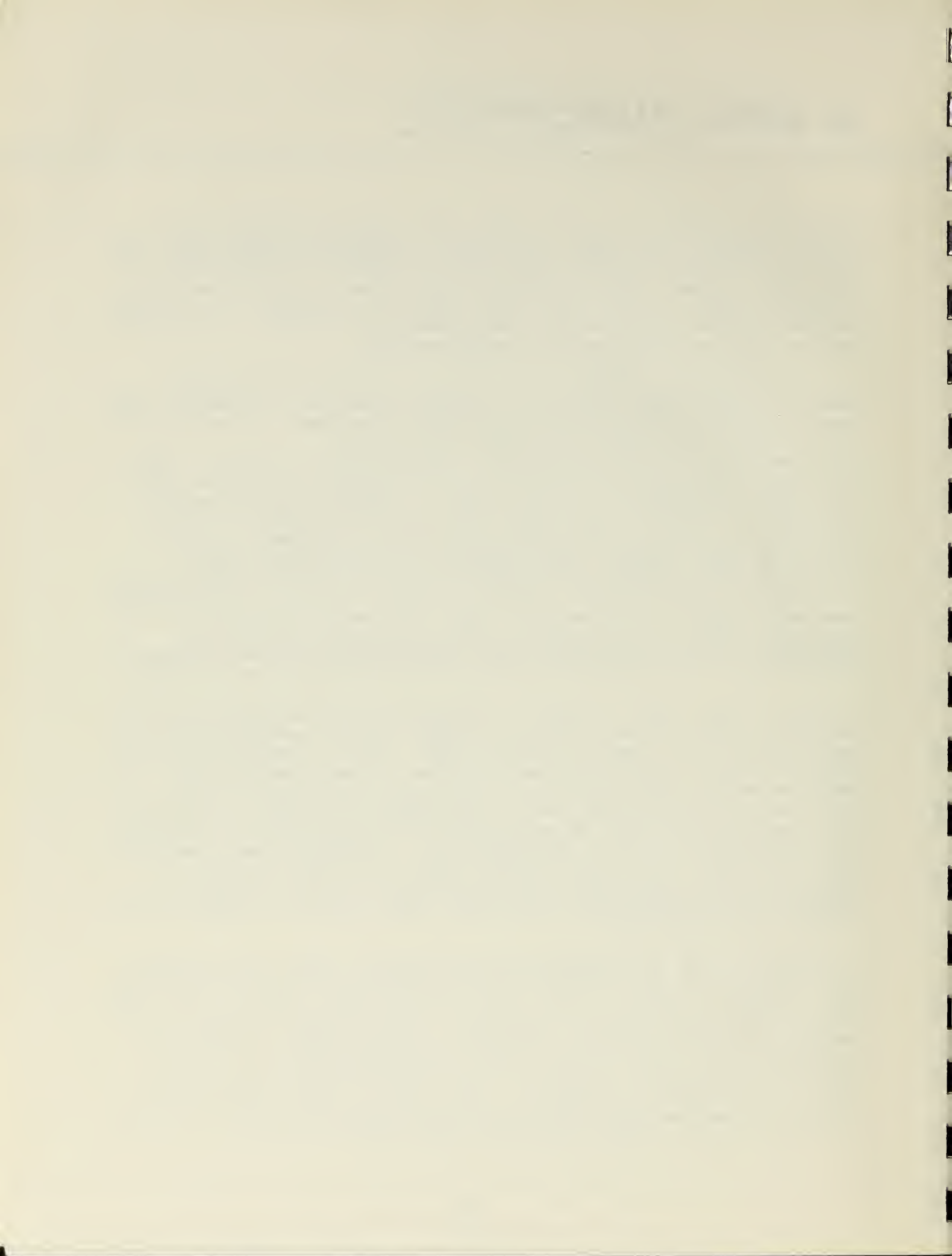
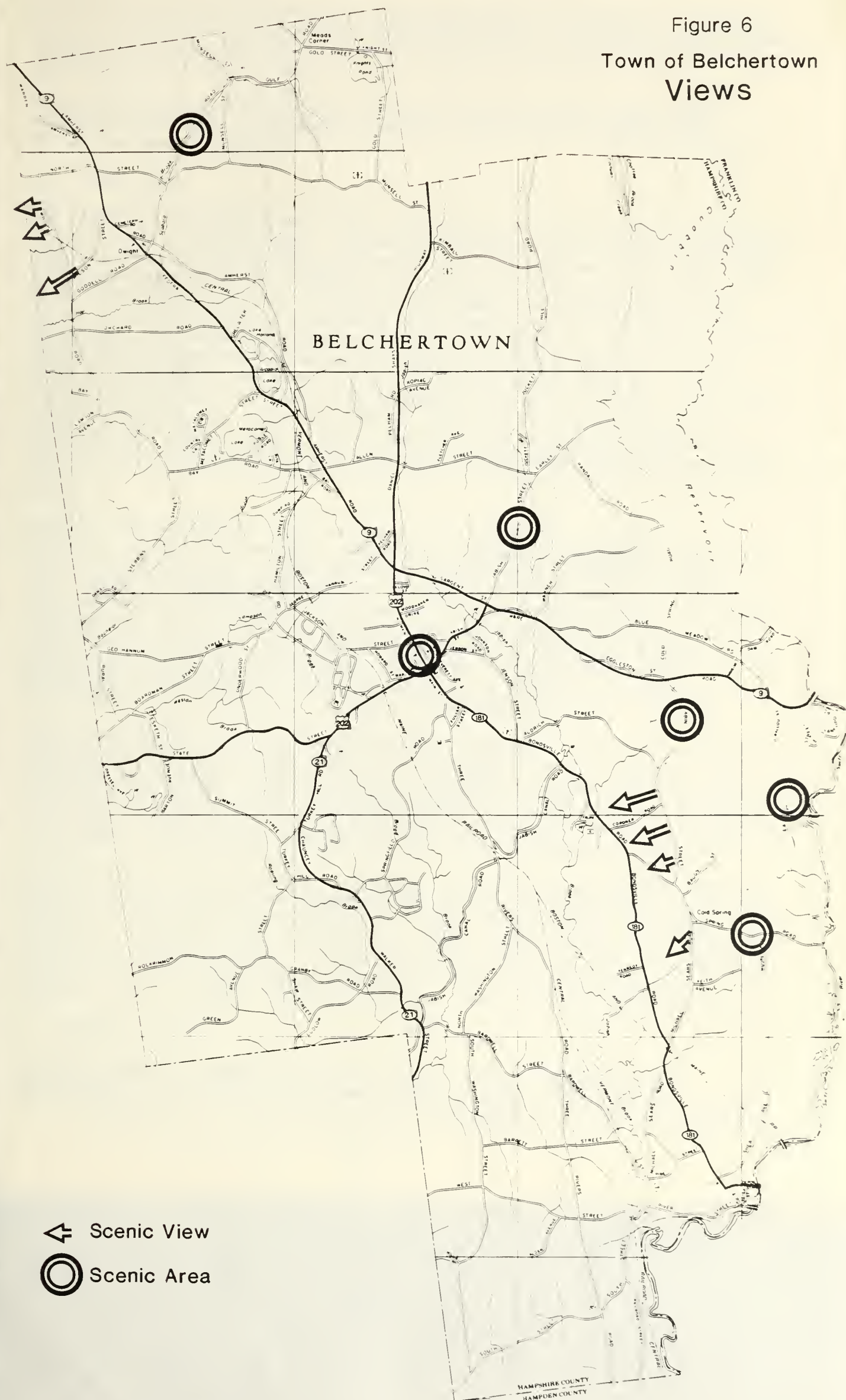


Figure 6  
Town of Belchertown  
Views







(Figure 7); 2) the Common and the area of Commercial development surrounding it; 3) the outlying residential development around the Common in Belchertown centre; 4) the Route 9 corridor; and 5) the Cold Spring area, the first area of Belchertown to be settled.

The following will identify the character of these target areas, their significant features, and potential methods which the Town might employ to soften development impacts.

## 1) Scenic Roads

The Historical Commission repeatedly defined the character of Belchertown in terms of it's rural heritage. Discussions with other Town boards and comments from residents at Town meeting, showed that it was precisely the rural, open, and wooded aspects of the landscape that people in Belchertown held most dear. The present rate of residential development is encroaching on this rural scene: the neighbors are coming too close, views are beginning to be obstructed, and roads are becoming too heavily travelled. The character of roads are determined by the amount of tree cover and the fencing or stone walls lining their borders, and then the views outwardly from the roads. Within this context, the Historical Commission decided to attempt to implement a Scenic Roads Bylaw. This bylaw would attempt to regulate the change in character of roads at least from the point of view of the immediate features, the trees and stone walls, which traditionally have been associated with rural scenery, by requiring a public hearing for road reconstruction, maintenance or repair.

Views of the countryside from the roads, are quite a bit more difficult to regulate. Belchertown has many examples of spectacular panoramic views across the valleys between the hills, and especially views of the Holyoke range. These views may become obstructed by the growth of thick vegetation along the road, and along fencelines, or they may be restricted by building. The most comprehensive way of maintaining these views is to maintain the land in agriculture, a goal set by the Agricultural Lands Preservation Committee. It should be the goal of the Historical Commission to become involved in discussions on Agricultural Land Preservation, at least to the extent of making their priorities known for areas of preservation.

Another possibility for maintaining the more spectacular views, is to obtain conservation easements to the property, or a portion of the property. A landowner can receive tax benefits as an incentive to donate these easements, which typically would restrict building on the land. The Town or a private land trust could also buy the easement from the landowner, although because of the monetary outlay needed for this, it is a less attractive solution.

The Agricultural Preservation Program, run by the Massachusetts Department of Food and Agriculture, is one program which may help to retain the agricultural character of these areas of Belchertown. Under this program, the owner receives a payment for the difference in price between selling for farmland and selling for development. A deed restriction then runs with the property, and the land must remain farmland forever. This is probably the most effective tool available for retaining large tracts of farmland as open space.

## 2. The Town Common

The Town Common is probably the most valuable piece of open space in Belchertown, both from a historic and community access point of view. Located at the intersection of Routes 202 and 181, the Common is at both the physical





and cultural centre of Belchertown. The Common is at present suffering from too much traffic, a lack of large shade trees, and recent, insensitive renovation. The Common has lost much of its tree cover, which dominated the scene in many early photographs, and it has also lost part of its lawn area to a parking lot in the south end. All of this has caused a loss of the feeling of lushness and greenery for which New England Town Commons are noted.

Belchertown should consider a thorough renovation of the Town Common to its original use as an open space which defines the centre of town. The Town Common should be permanent green space which all members of the town can enjoy, as well as providing an attractive setting for the downtown. Monies for the renovation can be accessed through the town or can be applied for through the Department of Environmental Management's City and Town Commons Program.

The area of commercial development around the Common has tremendous impact on the Common as well as on the character and image of the Town itself. Although change has not been drastic in recent years, an integrated program of rehabilitation and design review could help protect the charm of the existing buildings. A comprehensive sign bylaw limiting the type of signs used to wood or metal - no interior lit signs allowed - and a limitation on the size of those signs would help to ensure that signs do not become detrimental to the beauty of downtown. The Town should also adopt design guidelines for the rehabilitation of buildings in the downtown, thus giving the building owners a guide to the sensitive renovation of historic buildings.

In addition to these cosmetic solutions to the visual problems of downtown, the town should consider instituting some strict zoning provisions to retain the character of the downtown. These provisions could include restrictions on demolition, infill construction, use, and building height and setback for new construction. These provisions could give Belchertown the needed leverage to guide how its historically important downtown is developed.

### 3) The Town Centre

The Town centre has many superb examples of period architecture spanning all of the major styles during the region's history. It is a uniquely compact cross section of the history of Belchertown and the region, and is especially important due to the wonderful condition of the buildings.

One of the first steps that the town should take is to initiate a National Register nomination for the district, which will provide a measure of protection from state and federally funded projects. The next step that the Town could take is to institute a local historic district bylaw under Chapter 40C, which could regulate additions, demolition or alterations to existing properties to the extent that the Town feels is warranted. This means that the town may want to regulate the area very carefully, determining whether all alterations meet the goals of the district, even to the choice of paint colors, or the district could be very lenient and regulate only major modifications, like building additions, demolition, or division of the building from a single family to multifamily units.

The town center historic homes should also be protected in terms of inappropriate conversion of use, and infill development, especially immediately around the Common (Figure 8). Zoning of this area to residential and limited business, with infill carefully controlled with respect to design,





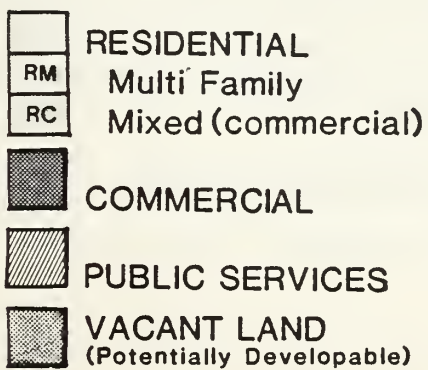
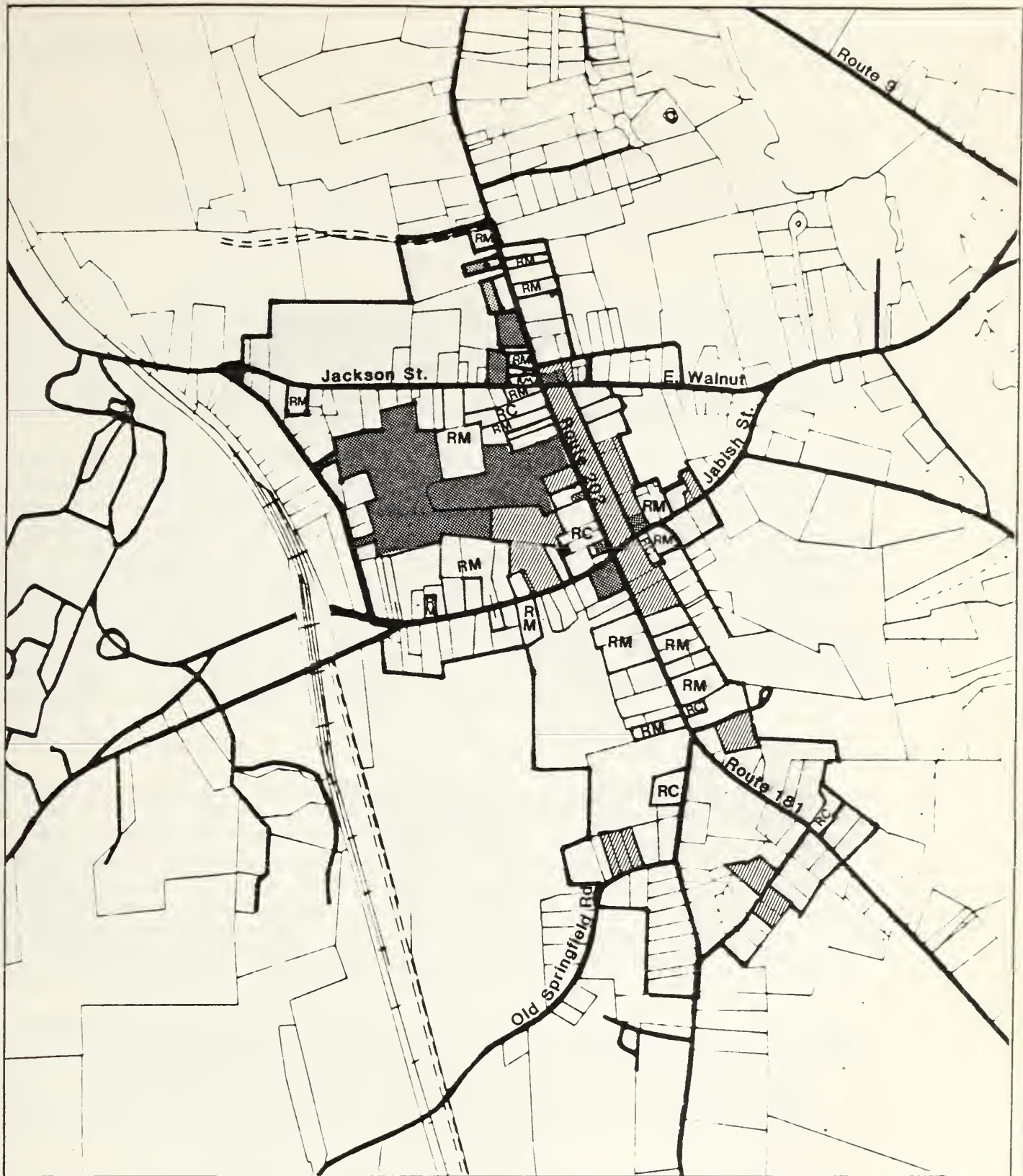
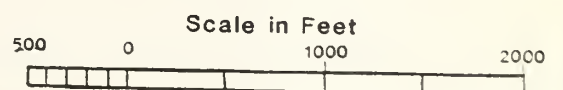


Figure 8  
Town of Belchertown  
Town Centre







building height, bulk and setback will help to maintain the character of this area.

A Site Plan Review Bylaw would be a major step toward achieving these aims. With carefully written provisions, the bylaw can regulate additions to existing structures, new construction, parking, landscaping and signage. With the Historical Commission's input on site plan reviews, inappropriate developments in historical areas can be eliminated.

#### 4) The Route 9 Corridor

The Route 9 corridor is presently under extreme development pressure from the single family subdivision of small acreage lots. Although the Route 9 corridor is known for its rural and woodland scenery as you pass through Belchertown, this is fast disappearing. The growth and development prominent in Amherst are creeping outwards and are making their impact known.

It would be wise for the Town to consider at this point, methods for lessening the impact of residential subdivision on this road. Implementing a cluster provision in the zoning and subdivision bylaws, and encouraging its use in this area as a method for having homes set back off the corridor would solve some of the problem. Increased setback requirements in this area would keep the homes at a distance, away from this heavily travelled artery, and would help retain some aspect of the rural character of the landscape. As for prohibiting residential development in this area entirely, that would be too harsh, since Route 9 is a major access for commuters. Also, while dense and unregulated development threatens the landscape, some development, and development in an organized fashion is necessary.

#### 5) The Cold Spring Area

The Cold Spring Area of Belchertown is the area first settled by residents of the Town in 1731. This area today is characterized by rolling farmland, a good deal of which is owned by the University of Massachusetts, a few existing historic homes, and wide, sweeping views of the countryside. As seen in figure 9, much of the land in this area is already protected open space, in either private or public hands. However, the rest of the land, even that in active farm use, is potentially available for development in the future. The Town should carefully consider the impact this may have on the spectacular view of the valley, and the rural landscape as a whole.

An attempt should be made to restore the one remaining 17th c. home in this area which was the original tavern for stage stops in Belchertown. Although money for restoration is not plentiful, once nominated to the National Register, and if publically owned, money could be accessed through the Massachusetts Preservation Projects Fund, or through the National Trust.

The Town or a land trust may also wish to consider the acquisition of conservation or preservation easements in this area to protect the historic and spectacular views. Easements may be purchased outright, or the property owner may donate an easement in return for certain tax benefits. In addition, the Agricultural Preservation Restriction program could be quite useful in preserving some of the large remaining tracts in this area.

#### Preservation Strategies Implemented:

The following three strategies were implemented during the project:





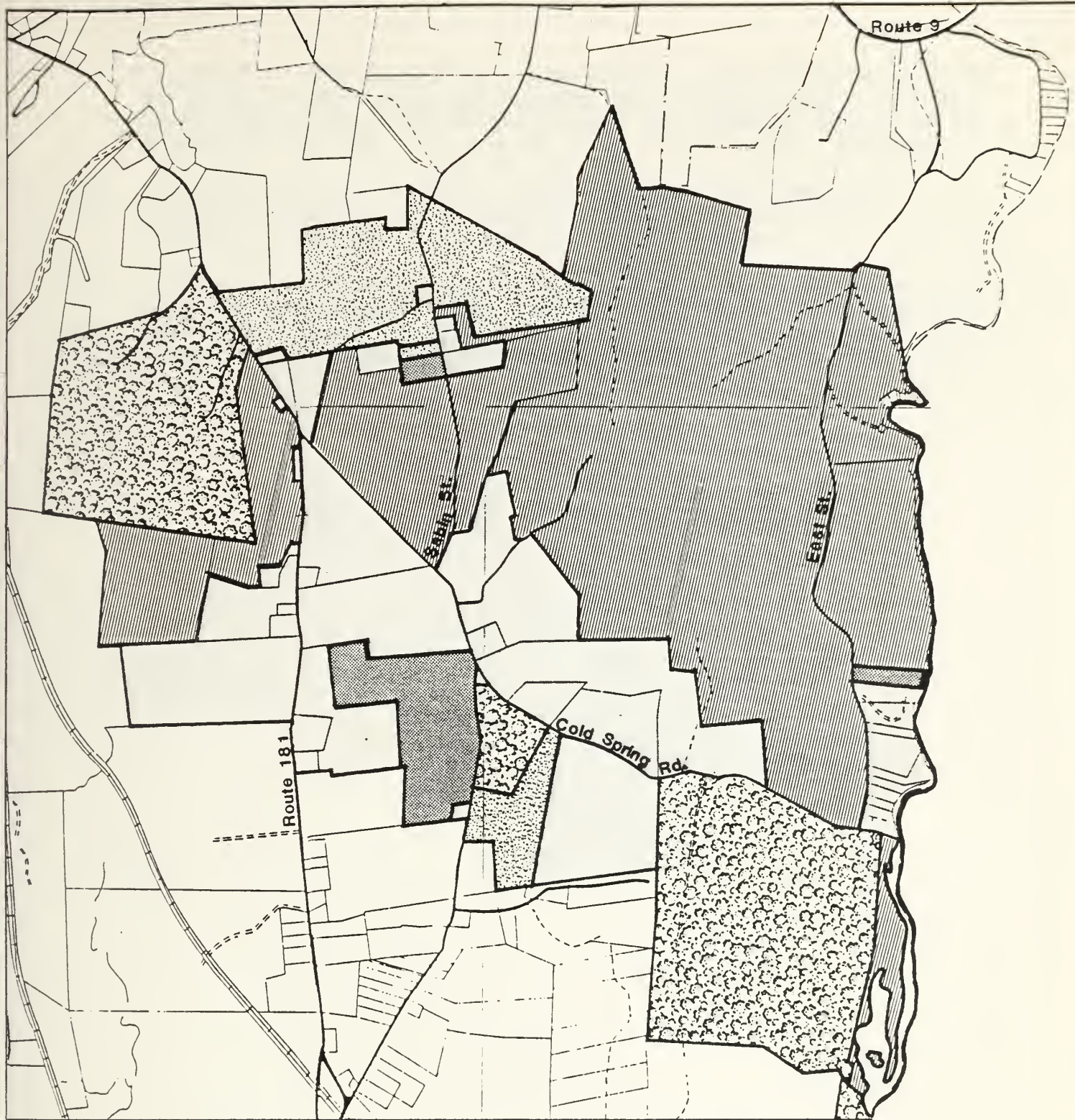
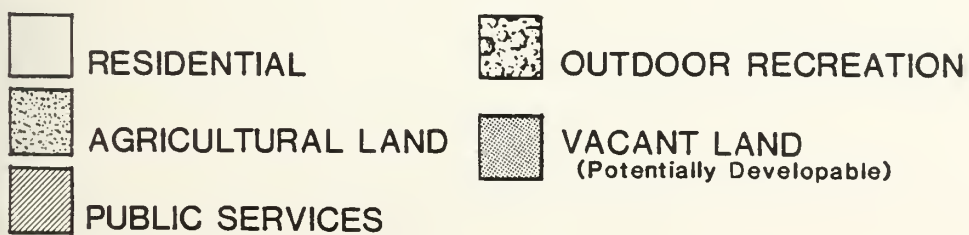


Figure 9  
Town of Belchertown  
Cold Spring





1. To attempt to gain funding for a comprehensive Growth Management Plan for the Town. An application was submitted for a January round of funding, but was turned down, although the Town was encouraged to reapply for the next round. The Town Has reapplied for an August round of funding.
2. To coordinate efforts with the Growth Management Committee, the Conservation Commission and the Agricultural Lands Committee, in determine future goals for preservation in Belchertown.
3. The submission of Scenic Roads Bylaw to Town Meeting in May. The bylaw would give the residents of the Town some input in the redevelopment and the change in character of the Town's roads. The proposed Scenic Roads Bylaw is attached (Appendix D) and was tabled for review by the new Town Planner.





*Appendix C*  
*Belchertown*  
*Census Statistics*



# BELCHERTOWN

## Population Characteristics

	1980		1970		1970-1980 Change	
	#	%	#	%	#	%
Population	8339	100.0%	5936	100.0%	2403	40.5%
White	8234	98.7%	5865	98.8%	2369	40.4%
Black	47	0.6%	63	1.1%	-16	-25.4%
Non-white	18	0.2%	8	0.1%	10	125.0%
Hispanic	41	0.5%	46	0.8%	-5	-10.9%
All-ages						
0-4	576	6.9%	415	7.0%	161	38.8%
5-9	606	7.3%	588	9.9%	18	3.1%
10-14	572	6.9%	643	10.8%	-71	-11.0%
15-19	491	5.9%	586	9.9%	-95	-16.2%
20-24	909	10.9%	594	10.0%	315	53.0%
25-29	1088	13.0%	484	8.2%	604	124.8%
30-34	950	11.4%	318	5.4%	632	198.7%
35-39	554	6.6%	322	5.4%	232	72.0%
40-44	345	4.1%	347	5.8%	-2	-0.6%
45-49	321	3.8%	354	6.0%	-33	-9.3%
50-54	381	4.6%	348	5.9%	33	9.5%
55-59	385	4.6%	254	4.3%	131	51.6%
60-64	362	4.3%	224	3.8%	138	61.6%
65-69	261	3.1%	161	2.7%	100	62.1%
70-74	214	2.6%	125	2.1%	89	71.2%
75+	224	2.7%	215	3.6%	9	4.2%
Persons under 18	2214	26.5%	2017	34.0%	197	9.8%
Persons 65+	699	8.4%	459	7.7%	240	52.3%
Median age	29.2	0.4%	26.6	0.4%	2.6	9.8%
Males	4135	49.6%	3002	50.6%	1133	37.7%
Females	4204	50.4%	2934	49.4%	1270	43.3%





# BELCHERTOWN

## Housing Characteristics

	1980		1970		1970-1980 Change	
	#	%	#	%	#	%
Year-round units	2961	100.0%	1583	100.0%	1378	87.0%
Vacant Units	92	3.1%	149	9.4%	-57	-38.3%
Boarded up	1	0.0%				
Occupied units	2869	96.9%	1434	90.6%	1435	100.1%
Owner occ.	2070	72.2%	1046	72.9%	1024	97.9%
Renter occ.	799	27.8%	388	27.1%	411	105.9%
Units						
before 1939	692	23.4%	712	45.0%	-20	-2.8%
# of units						
in structure						
all units	2961	100.0%	1538	100.0%	1423	92.5%
1 units	1971	66.6%	1204	78.3%	767	63.7%
2-4 units	347	11.7%	173	11.2%	174	100.6%
5-9 units	193	6.5%	32	2.1%	161	503.1%
10+ units	230	7.8%	85	5.5%	145	170.6%
Median Contract						
of renter						
occ. units(\$)	195		98		97	99.0%
Median						
gross rent(\$)	234		127		107	84.3%
Median value						
owner occ.(\$)	43400		14700		28700	195.2%
# of persons						
in units						
all units						
1	529	18.4%	231	16.1%	298	129.0%
2	1039	36.2%	399	27.8%	640	160.4%
3	514	17.9%	272	19.0%	242	89.0%
4	476	16.6%	237	16.5%	239	100.8%
5	189	6.6%	116	8.1%	73	62.9%
6+	122	4.3%	179	12.5%	-57	-31.8%
Median # of						
persons in units	2.37		2.8		-0.43	-15.4%
Year householder						
moved						
into unit						
all households						
1979-March 1980	837	29.2%				
1975-1978	886	30.9%				
1970-1974	469	16.3%				
1960-1969	278	9.7%	891	62.1%	-613	-68.8%
1959-	408	14.2%	543	37.9%	-135	-24.9%



BELCHERTOWN

Social  
Characteristics

	1980		1970		1970-1980 Change	
	#	%	#	%	#	%
Households	2869	100.0%	1583	100.0%	1286	81.2%
Families	2097	73.1%	1039	65.6%	1058	101.8%
married-couple	1788	62.3%	1406	88.8%	382	27.2%
w/child under 18	886	30.9%	591	37.3%	295	49.9%
Other than						
married-couple						
w/child under 18	203	7.1%	161	10.2%	42	26.1%
Female headed						
households						
w/child under 18	160	5.6%	119	7.5%	41	34.5%
Mean person						
per household	2.72		3.22		-0.5	-15.5%
Persons in						
group quarters	572	6.9%	1304	22.0%	-732	-56.1%
Residence						
5 yrs. earlier-						
All persons 5 yrs.	7763	100.0%	5521	100.0%	2242	40.6%
Same house	3959	51.0%	3505	63.5%	454	13.0%
Different house						
In SMSA or county	1438	18.5%	608	11.0%	830	136.5%
Outside SMSA or						
county	2313	29.8%	749	13.6%	1564	208.8%
Abroad	86	1.1%	57	1.0%	29	50.9%
H.S. graduates	2042	24.5%	1189	20.0%	853	71.7%
College grad.	1047	12.6%	678	11.4%	369	54.4%
Trans. to work						
Place of work						
Work in area of						
residence	1275	33.0%				
Work outside area						
of residence	2515	65.2%				
Means of Trans.						
Drive alone	2693	69.8%	1470	75.5%	1223	83.2%
Carpool	732	19.0%	252	12.9%	480	190.5%
Public trans.	139	3.6%				
# of vehicles						
per house	2878	100.0%	1534	100.0%	1344	87.6%
0	188	6.5%	193	12.6%	-5	-2.6%
1	962	33.4%	676	44.1%	286	42.3%
2	1259	43.7%	497	32.4%	762	153.3%
3+	469	16.3%	168	11.0%	301	179.2%





# Belchertown

## Economic Characteristics

	1980		1970		1970-1980 Change	
	#	%	#	%	#	%
Persons 16+	6431	100.0%	4223	100.0%	2208	52.3%
Labor Force 1979						
Employed	3859	60.0%	1948	46.1%	1911	98.1%
Unemployed	307	4.8%	56	1.3%	251	448.2%
Not in Labor Force	2265	35.2%	2207	52.3%	58	2.6%
Occupations						
Prof.@ Tech.	704	18.2%	239	12.3%	465	194.6%
Executive, admin.						
manger	338	8.8%	109	5.6%	229	210.1%
Sales	171	4.4%	104	5.3%	67	64.4%
Admin. support						
@ clerical	753	19.5%	340	17.5%	413	121.5%
Precision prod.						
craftsmen	473	12.3%	304	15.6%	169	55.6%
Oper., Fabric.						
transport	524	13.6%	358	18.4%	166	46.4%
Labors, farm,						
other blue collar	149	3.9%	173	8.9%	-24	-13.9%
Service workers						
priv. household	740	19.2%	321	16.5%	419	130.5%
Not reported						
Industry						
Const.	125	3.2%	173	8.9%	-48	-27.7%
Manufac.	698	18.1%	439	22.5%	259	59.0%
Trans.	142	3.7%	31	1.6%	111	358.1%
Comm., util.						
sanitary	53	1.4%	19	1.0%	34	178.9%
Wholesale	100	2.6%	62	3.2%	38	61.3%
Retail	484	12.5%	280	14.4%	204	72.9%
Fin., ins.						
real estate	201	5.2%	109	5.6%	92	84.4%
Services	1758	45.6%	606	31.1%	1152	190.1%
Public Admin.	197	5.1%	76	3.9%	121	159.2%
Other	94	2.4%	153	7.9%	-59	-38.6%
Median Income(\$)						
Household	17467		7943		9524	119.9%
Family	19821		9029		10792	119.5%
Unrelated indivi	6653				#VALUE	#VALUE
Per capita income	6474		2021		4453	220.3%
% below poverty						
Persons	682	8.2%	473	8.0%	209	44.2%
Families	51	2.4%	102	9.8%	-51	-50.0%
Unrelated indivi	375	4.5%	130	2.2%	245	188.5%



*Appendix D*  
*Scenic Roads*



## DRAFT SCENIC ROADS BYLAW

### Section 1: Definitions

A road designated as a scenic road requires that any repair, maintenance, reconstruction, or paving work done with respect thereto shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with the written prior consent of the planning board. The planning board is required to hold a public hearing duly advertised twice in a newspaper of general circulation in the area as to the time, date, place and purpose, the last publication to occur at least seven days prior to such hearing.

In the absence of contrary meaning established through legislative or judicial action pursuant to M.G.L. Chapter 40, Section 15C, the following terms contained in that statute shall be defined as follows:

#### 1.1 "Cutting or Removal of Trees"

"Cutting or removal of trees" shall mean the removal of one or more trees, trimming of major branches or cutting of roots.

#### 1.2 "Repair, Maintenance, Reconstruction, or Paving Work"

"Repair, maintenance, reconstruction, or paving work" shall mean any work done within the right-of-way by any person or agency, public or private. Within this definition is any work on any portion of the right-of-way which was not physically commenced at the time the road was designated as a scenic road. Construction of new driveways or alteration of existing ones is also included, in so far as it takes place within the right-of-way.

#### 1.3 "Road"

"Road" shall mean a right-of-way of any way used and maintained as a public way including the vehicular travelled way plus necessary appurtenances within the right-of-way such as bridge structures, drainage systems, retaining walls, traffic control devices, and sidewalks, but not intersecting streets or driveways. When the boundary of the right-of-way is in issue so that a dispute arises as to whether or not certain trees or stone walls or portions thereof are within or without the way, the trees or stone walls shall be presumed to be within the way until the contrary is shown.

#### 1.4 "Tearing Down or Destruction of Stone Walls"

"Tearing down or destruction of stone walls" shall mean the destruction of more than sixteen (16) linear feet of stone wall involving more than one cubic foot of wall material per linear foot above existing grade, but shall not be construed to include temporary removal and replacement at the same location with the same materials.

#### 1.5 "Trees"

"Trees" shall include a tree whose trunk has a diameter of five inches or more as measured one foot above the ground.





## Section 2: Purpose

These regulations are intended to insure that:

1. ways are designated as scenic roads based upon stated criteria;
2. ways so designated will not be altered without following proper procedures and without adherence to proper considerations as stated herein;
3. ways so designated will not be altered by the decision of any person, organization, or agency other than the planning board; and
4. ways so designated will not be removed from such designation, except upon majority vote of Town Meeting.

## Section 3: Criteria for Designation as a Scenic Road

The planning board, conservation commission, or historical commission, will recommend roads or portions or roads to be designated as scenic roads, and shall consider the following criteria:

1. ways bordered by single trees or stands of trees of exceptional quality;
2. ways bordered by stone walls;
3. ways bordered by any other natural features of aesthetic value such as panoramic views, streams, ponds or other water bodies, and/or agricultural landscapes;
4. ways which have historic value through development and use, or by proximity to historic buildings or structures; and
5. ways for which any alteration would lessen the aesthetic value of natural or man-made features bordering them.

## Section 4: Notification of Designation as Scenic Road

Upon the designation of any roads or portion of road as a scenic road, the designating board shall take the following steps within 30 days of such designation:

1. notify all municipal departments that may take any action with respect to such road;
2. notify the State Department of Public Works;
3. publish in the local paper by an informal article that the road, or roads, have been so designated;
4. indicate such designation on all maps currently in use by municipal departments; and
5. notify all utility companies or other such parties which may be working on the border of such road.



## 5.0 Procedures

Designation of a road as a scenic road, will be made upon the recommendation of the planning board, the conservation commission, or the historical commission and will be approved by a majority of Town Meeting vote.

### 5.1 Filing

Any person, organization, state or municipal agency seeking the written consent of the planning board regarding the cutting or removal of trees or the tearing down or destruction of stone walls, or portions thereof on a scenic road shall file a request with the planning board together with the following:

1. the text of a legal notice identifying the location of the proposed action in terms enabling readers to locate it with reasonable specificity on the ground without need for additional plats or references, and describing in reasonable detail the proposed changes to trees and stone walls;
2. a statement of the purpose, or purposes, for the changes proposed;
3. a list of owners of properties located in whole or in part within 100 feet of the proposed action;
4. except in the case of town agencies, a fee sufficient to cover the cost of advertising and notification; and
5. any further explanatory material useful to adequately inform the planning board.

### 5.2 Notice

The planning board shall, as required by statute, give notice of its public hearing by advertising twice in a newspaper of general circulation in the area. This notice shall contain a statement as to the time, date, place, and purpose of the hearing with a reasonable description of the action proposed by the applicant. Copies of this notice shall also be sent to the selectmen, the conservation commission, the historical commission, the municipal engineer, the tree warden, the department of public works, and the owners of property within 100 feet of the proposed action.

### 5.3 Timing of Notice

The first publication of the notice shall be as soon as feasible after the planning board receives the request from the applicant, and shall in all cases be at least 14 days before the hearing. The last publication shall occur, as required by statute, at least seven days prior to the hearing.

### 5.4 Timing of Hearing

The Planning Board shall hold a public hearing within 30 days of the planning board meeting at which a properly filed request is received. The date and time of the public hearing shall be set outside of normal weekday work hours (8:00 a.m. - 5:00 p.m., Monday-Friday) so as to encourage maximum citizen participation.





### 5.5 Timing of Decision

The Planning Board shall make a decision on the request within 21 days of the public hearing.

### 5.6 Public Shade Tree Act

Whenever feasible, notice shall be given and planning board hearings shall be held in conjunction with those held by the tree warden acting under M.G.L. Ch. 87. The consent of the planning board to a proposed action shall not be regarded as inferring consent by the tree warden, or vice versa. The planning board decision shall contain a condition that no work should be done until all applicable provisions of the Public Shade Tree Law, M.G.L. Ch. 87, have been complied with.

## Section 6: Considerations

The planning board's decision on any application for proposed action effecting scenic roads shall be based on consideration of the following:

1. preservation of natural resources;
2. environmental values;
3. historical values
4. scenic and aesthetic characteristics;
5. public safety;
6. compensatory actions proposed, such as replacement of trees or walls;
7. other sound planning considerations.

## Section 7: General

The planning board may adopt more detailed procedures for carrying out provisions hereunder.

0383A



**TECHNIQUES**  
*and*  
**OPTIONS**



## PRESERVATION TECHNIQUES AND OPTIONS

### 1.0 LEGISLATION

#### 1.1 Zoning MGL Ch. 40A

Zoning can regulate the use, bulk, height, setback and coverage requirements of buildings and can regulate yard sizes, lot area, frontage requirements, open space requirements, parking and signage. Zoning cannot, however, regulate or restrict the use of materials or methods of construction regulated by the state building code nor can it regulate or restrict the interior area of a single family residential building or regulate religious, educational or governmental uses.

Cluster zoning can provide open space opportunities for a town by requiring that open land be conveyed to the city or town or conveyed to a non-profit organization. The principal purpose of which is the conservation of open space, or to a trust owned by owners of lots within the subdivision.

For further information:

The Zoning Act - Massachusetts General Laws, Chapter 40A  
Local Planning Board  
Local Zoning Bylaw or Ordinance

#### 1.2 Subdivision Control Regulations MGL Ch. 41

The basic purpose of subdivision control legislation is regulating the construction of ways which are not public ways and ensuring safe and sanitary conditions within the subdivision. Subdivision control laws are exercised with respect to adequate access, lessening congestion, safe motor vehicle operations, fire and emergency safety, adequate utilities and municipal services, street lighting and easing circulation within the subdivision and between it and other public ways.

For further information:

Municipal Planning and Subdivision Legislation, Massachusetts General Laws Chapter 41  
Local Planning Board  
Local Subdivision Control Regulations

#### 1.3 Site Plan Review

Site Plan Review is a method by which design can be regulated along with the zoning regulation of use and density of development. Although site plan review is often conducted as one kind of special permit procedure, most bylaws review only design and do not determine what uses will be permitted in the zoning district. Therefore, the special permit granting authority will be considering not the desirability of the project but specific factors such as the placement of buildings and utilities, surface and groundwater drainage, water supply, access, parking, loading, landscaping, lighting, dust and noise control, environmental damage and off-site impacts. This review takes more factors into account than the planning board may consider when





reviewing ways, drainage and utilities under the Subdivision Control Act. However, site plan review, like subdivision control, does not in itself afford the review authority the power to refuse approval if the project meets its standards. Site plan review provides a greater potential for historical preservation than either zoning or subdivision since historical considerations may be included in the criteria for successful site plan review.

For further information:

Local Zoning Bylaw

Local Planning Board (for site plan review authority)

Growth Management Techniques, a 1978 review by the Metropolitan Area Planning Council

#### 1.4 Local Historic Districts MGL Ch. 40C

A historic district is a geographic area of historic, cultural or aesthetic importance in a community which may be protected by a local preservation ordinance or bylaw according to the enabling legislation of MGL Ch. 40C. The ordinance or bylaw usually regulates demolition, and the design of exterior alterations and new construction by requiring a special permit, but may also regulate landscaping, lighting, fences, signs, artificial siding and paint color. Preservation ordinances or bylaws may also regulate changes to individually designated landmarks outside of a historic district or be written solely to protect specific buildings located throughout the town or city.

The ordinance or bylaw is administered by a local historic district commission, who has the power to issue special permits based upon the appropriateness of intended exterior changes to a property. Since the historic district is not intended to regulate the use of property, it is used in conjunction with zoning to regulate the special needs of historic buildings and areas.

For further information:

Massachusetts Historical Commission, 1978. Establishing Local Districts or contact: Massachusetts Historical Commission

National Trust for Historic Preservation 1983. Historic Districts: An Introduction to Information Resources

#### 1.5 Wetlands Protection Act MGL Ch. 131 Sec. 40

The Wetlands Protection Act gives Conservation Commissions the authority to regulate development in any wetland that is thought to be of significant natural value. The standards and presumptions used by the Conservation Commission in determining the significance of the wetland are found in the regulations for the Act. Any person who desires to alter a wetland must submit a "Request for Determination of Applicability" to the Conservation Commission. Within 21 days the Conservation Commission will issue such a determination, stating whether or not the Act applies to the wetland in question. If the Conservation Commission finds that the Act does apply, a "Notice of



Intent"-- describing exactly what work is planned--must be filed by the person proposing to alter the wetland. At this point the Conservation Commission must hold a public hearing to determine whether or not the proposed work will significantly affect the wetland. If it is determined that the work will, indeed, alter the natural quality of the wetland, the Conservation Commission issues an "Order of Conditions" for the protection of the wetland.

For further information:

The Department of Environmental Quality Engineering  
Western Regional Office, Director of Wetlands

1.6 Wetlands Restriction Program M.G.L. Ch. 131 Sec. 40A

In contrast to the Wetlands Protection Act--which is able to evaluate only those wetlands threatened by development--the Wetlands Restriction Program offers a comprehensive evaluation of all wetlands in the community as well as a mechanism for their protection. Under the Wetlands Restriction Program all significant wetlands in a community are located and cited for protection. The wetlands mapping is done at the community's expense by the Department of Environmental Quality Engineering (DEQE). A restriction is placed on the deed of all properties containing significant wetlands, thus protecting those areas from development.

Although the need for this kind of wetlands protection is statewide, the high cost of mapping has limited the program's appeal. To date the program has been applied only to coastal wetlands. At the present time the program is inactive. Communities interested in the continuation of the Wetlands Restriction Program should contact their State Legislators.

For further information:

Department of Environmental Quality Engineering - Boston  
Director of Restriction Program

1.7 Forest Cutting Practices Law M.G.L. Ch. 132 Sec. 40-46

The Forest Cutting Practices Law insures a continuous supply of wood products through the rehabilitation and maintenance of Massachusetts forest lands. By standardizing cutting practices this law addresses water conservation, flood prevention and soil erosion, as well as the improvement of conditions for wildlife and recreation in our forests.

Any landowner planning to cut a volume greater than 25,000 board feet or 50 cords must develop a Forest Cutting Plan which provides for the following:

1. Cutting methods which promote regeneration and protect wetlands.
2. Woods, roads, and skid trails that are designed, built and maintained to control erosion.
3. Filter strips along water bodies to promote infiltration and trap sediments.





4. Buffer strips along roads and major water bodies to protect scenic and resource values
5. Methods that properly dispose of logging residues.

A forest cutting plan certificate is issued when the plan is approved. It must be posted in plain sight on the public way at the entrance to cutting area.

#### 1.8 Scenic Roads Designation MGL Ch. 40 Section 15C

Upon recommendation of the planning board, historical commission or conservation commission, any city or town may designate roads other than numbered routes or state highways as scenic roads. Scenic designation regulates the repair, maintenance and reconstruction of these roads and prohibits the cutting or removal of trees or destruction of stone walls except by express approval of the town or city government. Scenic road designation must be passed by town meeting or city council.

For further information:

Massachusetts General Laws, Chapter 40, Section 15C

#### 1.9 The Scenic Rivers Program M.G.L. Ch.21, Sec. 17B

The Department of Environmental Management (DEM) inaugurated the Scenic Rivers Program in 1977. The first task was the creation of a statewide inventory of the Commonwealth's rivers and streams based on scenic and natural qualities. Approximately 180 rivers and streams were nominated by various local boards, citizens, and agencies. Of the rivers nominated, 46 were voted eligible for designation as either a State or Local Scenic River.

In order to assist communities and organizations with the financial burden of preparing these local river protection plans the state initiated a "Greenway Project" in 1980. Under the Greenway program, funds are made available to watershed associations, regional planning agencies, groups of riverfront towns, and other organizations to develop "greenway" or river management plans. Funding will provide 75% of the costs of programs. Grant allocations are \$15,000; since a 25% local match is required, total project costs can be \$20,000.

A list of classified rivers (proposed for designation) in Hampden and Hampshire counties is available from the Pioneer Valley Planning Commission. Proposals for local river protection planning will be accepted only for those rivers included on this list.

For further information:

The Pioneer Valley Planning Commission  
The Connecticut River Watershed Council  
Department of Environmental Management (DEM) Office of Planning and Development and the Connecticut Valley Action Task Force



## 2.0 DIFFERENTIAL TAX ASSESSMENTS

Differential Tax Assessment programs provide tax "breaks" to owners of agricultural, horticultural and recreation land who agree to keep their land in that condition for a designated number of years. The property is taxed at its actual use value rather than at the customary "highest and best" use value.

### 2.1 The Classification and Taxation of Forest Land and Products MGL Ch. 61

Under Chapter 61 forest land is assessed at five (5) percent of its full and fair market value. An eight (8) percent products tax, based on the stumpage value, is due when the forest products are harvested. A lien is recorded with the Registry of Deeds for taxes saved plus interest. If land is sold or converted to another use, it will be subject to a "withdrawal penalty tax". Land taxed under this act cannot be sold or converted to another use unless the city or town in which the parcel is located is notified. The municipality holds this "right of first refusal" for 60 days after notification of intent to sell.

#### Eligibility

- At least 10 contiguous acres of forest land.
- Managed under approved forest management plan. Applicant must submit forest management plan approved by County Forester. Management plan is prepared by private forestry consultant at owner's expense. Parcel must be recertified every ten years.

For further information:

Department of Environmental Management, Division of Forests and Parks

### 2.2 The Classification and Taxation of Agricultural Land MGL Ch. 61A

Under Chapter 61A farmland, either owned or leased, is assessed at its agricultural value. The various types of agricultural land (e.g. cropland versus pasture) are assigned different values. A lien is recorded on the deed for taxes levied while classified under Chapter 61A. If the land is sold for another use within 10 years from the date of acquisition, it is subject to conveyance and roll back taxes for that year and the four preceeding years.

#### Eligibility

- At least five (5) contiguous acres.
- Actively devoted to agricultural/horticultural use during the current tax year and the two preceeding tax years.
- Agricultural/horticultural production on 5 acres must gross at least \$500 per year. Parcels larger than 5 acres must meet additional sales requirements.

For further information:

Local Board of Assessors





## 2.3 Classification and Taxation of Recreational and Open Land MGL Ch. 61B

Under Chapter 61B certain lands may be classified as recreation land for taxation purposes. The value of land classified under this act will be reduced at least 75%, and thus will be taxed on this substantially lower value. A lien is recorded on the deed for all taxes levied. If the land is sold or converted to another use it will be subject to conveyance or roll back taxes.

### Eligibility

- At least 5 acres retained in natural, wild, open or landscaped condition, so as to preserve wildlife or natural resources.
- Devoted primarily to passive recreational use.
- Available to the general public or members of non-profit organizations.

For further information:

Local Board of Assessors

## 3.0 ACQUISITION

### 3.1 Acquisition by Fee Simple

#### 3.1.1 Purchase by a Public Body

Certain public bodies, such as conservation commissions, may purchase, accept donations of, or manage land. Funds for acquisitions may be encumbered directly from town assets or through state grant programs. For example:

- 1) City and Town Commons Program, Department of Environmental Management. The program can fund acquisition or development of land relating to Town Commons. The matching grant of up to \$700,000 per project sponsors the first \$100,000 of program costs in full and 70% of those in excess, plus 50% of all associated costs (e.g. planning, legal, design and engineering). A community may use the value of in-kind contributions to cover all or part of its share of project costs.

For further information:

Willa Kuh, City and Town Commons Program  
Department of Environmental Management

- 2) Heritage State Park Program, Department of Environmental Management

This program will provide funds for the acquisition and development of urban parks in economically depressed, historical areas of cities undertaking revitalization programs.

For further information:

Heritage State Park Program, Department of Environmental Management





3) Massachusetts Self Help Program MGL Ch. 132A, Sec. 11

Through the Massachusetts Self-Help Program municipalities may obtain up to 80% of the cost of acquiring (but not maintaining) land for conservation and passive outdoor recreation purposes. State policy mandates that land acquired for conservation purposes remain devoted to that use. If the land is converted to another use without express permission from the State, the municipality must refund the grant funds. Land acquired with Self-Help funds must be open to the public.

Self-Help funds are available for projects such as water supply protection, passive recreation, farmland preservation and rare species habitat protection. It is important to note that the Self-Help Program operates on a reimbursement basis: only after the municipality has expended the total project cost, will it receive an 80% refund from the State.

For Further Information:

Executive Office of Environmental Affairs (EOEA)  
Division of Conservation Services (DCS)  
DCS Regional Field Office  
Pioneer Valley Planning Commission

4) The Massachusetts Urban Self Help Program M.G.L. Ch. 933

Cities with a population of thirty five thousand or more which have established park or recreation commissions and a conservation commission are eligible for Massachusetts Urban Self Help funds. The two main objectives of the program are to provide needed park space in dense urban neighborhoods and to spur urban revitalization efforts by providing open space amenities. The Urban Self Help Program provides up to 80% reimbursement for acquisition of park or recreation lands. In contrast to the regular Self Help program, proposals for active recreation projects may be accepted.

For further information:

Executive Office of Environmental Affairs (EOEA)  
Division of Conservation Services (DCS)  
DCS Regional Field Office  
Pioneer Valley Planning Commission

6) Land and Water Conservation Fund (LWCF) Public Law 88 - 5788

The LWCF is administered nationally by the National Park Service (NPS) and in Massachusetts by the Division of Conservation Services (DCS). The fund provides up to 50% of total costs for acquisition and/or development of public outdoor recreation areas and facilities. Because the program is concerned with public recreation needs as well as preserving open space it may fund more intensive recreational uses such as swimming pools and campgrounds than would otherwise be allowed under the Self Help program.



For further information:

Executive Office of Environmental Affairs (EOEA)  
Division of Conservation Services (DCS)  
DCS - Regional Field Office  
Pioneer Valley Planning Commission

### 3.1.2 Massachusetts Preservation Project Funds, Massachusetts Historical Commission

The Massachusetts Historical Commission will provide 50% matching funds for research or development of historic properties listed in the State Register of Historic Places. Preference is given to properties of state or national level significance and to those which would be lost or destroyed in the absence of assistance. In a case where funds are requested to acquire property to prevent demolition, the applicant must demonstrate that he/she is the developer of last resort.

For further information:

Massachusetts Historical Commission

### 3.1.3 Land Trusts

Land trusts are non-profit entities established as either a part of town government or as a private organization. Both are dedicated to conserving natural resources and preserving land in an open, undeveloped state. However, a slight philosophical distinction usually differentiates the two. A public land trust may accumulate land for specific, future community needs, such as recreation or farmland preservation. A private land trust may base its acquisitions more strictly based on the intrinsic scenic, historic or conservation value of the land.

Essential to the successful operation of a land trust are: local support, a secure financial base and a strong volunteer core. Any group of persons interested in land preservation can form a trust. However it is wise to obtain professional assistance to deal with the initial paperwork (trust incorporation and establishment of non-profit tax status). Once incorporated, a trust can acquire land through donation, deed transfer or purchase.

For further information:

The Massachusetts Farm and Conservation Lands Trust  
The Trustees of Reservations  
The Connecticut River Watershed Council  
The Institute for Community Economics  
The Trust for Public Lands

### 3.1.4 Land Banks

Land banking is the public acquisition and indeterminate holding of undeveloped land. It differs from other preservation techniques in that its primary intent is not always the permanent maintenance of land in an undeveloped state. It is, instead, a method for restraining





and/or guiding development until the future needs of the community are clearly outlined. Land banking can be considered a "holding pattern".

This type of public ownership can be used as a mechanism to direct and manage the timing and pattern of future growth. The community retains ownership of the land until such time that it can provide services to that area, or until such time that an appropriate development plan is proposed. Land banking can also be used to set aside sites for future public facilities.

For further information:

Institute for Community Economics

### 3.1.5 National Preservation Loan Fund, National Trust

The National Preservation Loan Fund provides loans to assist preservation organizations with the creation or expansion of local revolving funds and with preservation development projects for individual buildings, sites and historic districts. The fund is limited to acquisition, stabilization, rehabilitation and related capital cost for projects involving historic properties, sites or objects. Generally, projects should be designed to return capital to the organization for future preservation projects.

A minimum dollar-for-dollar match is required and borrowers are required to have a 20% equity investment in the project. The maximum loan amount is \$100,000 for a loan term of 5 years.

## 3.2 Acquisition by Less Than Fee

### 3.2.1 Transfer of Development Rights (TDR)

Transfer of Development Rights is a legal mechanism for converting the specific right to develop a parcel of land into a saleable economic asset. A land use plan which designates both a "preservation district" from which the development rights could be acquired, and a "reception district" where the rights could be applied, is required to implement TDR. The language of the town's zoning bylaw would also be changed. The bylaw would allow more intensive development in the area designated as the "reception district", as long as development rights acquired from the agricultural "preservation district" were applied to that site.

This intangible "right to develop" can be tangibly represented by certificates issued to landowners within the preservation district. These certificates would embody the development rights and could be sold to persons wishing to build in the reception district. The right to build would, thus, be a saleable commodity.

In some towns the municipality acts as a liaison between the developer and the landowner. The city or town holds the certificates until a developer expresses interest in purchasing them. When such certificates are sold, the landowner receives compensation for the development value of his or her property.



For further information:

Pioneer Valley Planning Commission  
Massachusetts Cooperative Extension Services

### 3.2.2 Agricultural Preservation Restrictions Act (APR) MGL Ch. 132A

The right to develop a property is one component of fee simple ownership. As such, this right may be bought, sold, inherited, etc. Under the APR program the State may purchase the development rights to important, productive agricultural lands, thereby permanently preventing the land from being converted to non-farm uses. The landowner retains all other rights of ownership and is able to sell, lease, or will the land at his discretion.

To determine the purchase price of the restriction two appraisals are done on the land: one for the highest market value before imposition of the restriction and one for the farm value after restriction. The value of the restriction is the difference, and this amount is paid to the landowner. The landowner may chose to receive payment over a number of years, rather than all at once, thereby lowering capital gains taxes. Other mechanisms such as charitable donation or bargain sale can also be combined with APR to further lower taxes.

For further information:

Pioneer Valley Planning Commission  
State Department of Food and Agriculture  
Massachusetts Cooperative Extension Service  
Three District Conservation Office

### 3.2.3 Conservation or Preservation Restrictions/Easements

A conservation restriction is a written agreement between a landowner and a government agency or private charitable organization in which the landowner agrees to keep the land in predominantly open or scenic conditions or in farming or forestry. A preservation restriction is the same agreement but attached to a building or group of buildings which may be designated as a Massachusetts Architectural Landmark. The agreement may be for a limited number of years or in perpetuity as specifically designated in the restriction and is placed on the deed. Deed restrictions are interests in land or property and therefore may be sold or donated. The value of a restriction is equal to the reduction in property value due to the imposition of the restriction.

Because a restriction may reduce property value, the donor benefits from a reduction in real estate taxes and a deduction on income taxes for a charitable contribution. In addition, a gift of a restriction eliminates estate (death) taxes on the land.

An important fact to remember about a deed restriction is that the title of the property remains with its owner. Also, the public does not obtain any rights to enter upon the restricted land unless specifically stated in the restriction.





### Eligibility

- If the restriction is to be sold, government agency must approve restriction and agree to payment
- If restriction is to be donated, it must be approved by town selectmen and government agency

For further information:

Executive Office of Environmental Affairs  
Division of Conservation Services  
Local Conservation Commission

#### 3.2.4 Sale With Deed Restriction

An outright sale with deed restriction allows the seller to govern the future use of his or her land. By including a restriction clause in the deed the landowner can designate exactly which activities will be prohibited or permitted on the parcel. Future owners of the property are legally obligated to abide by the restriction clause. In this way the landowner benefits financially from the sale, while concurrently preventing any undesirable future changes in the condition of the land or its buildings.

#### 3.2.5 Bargain Sales

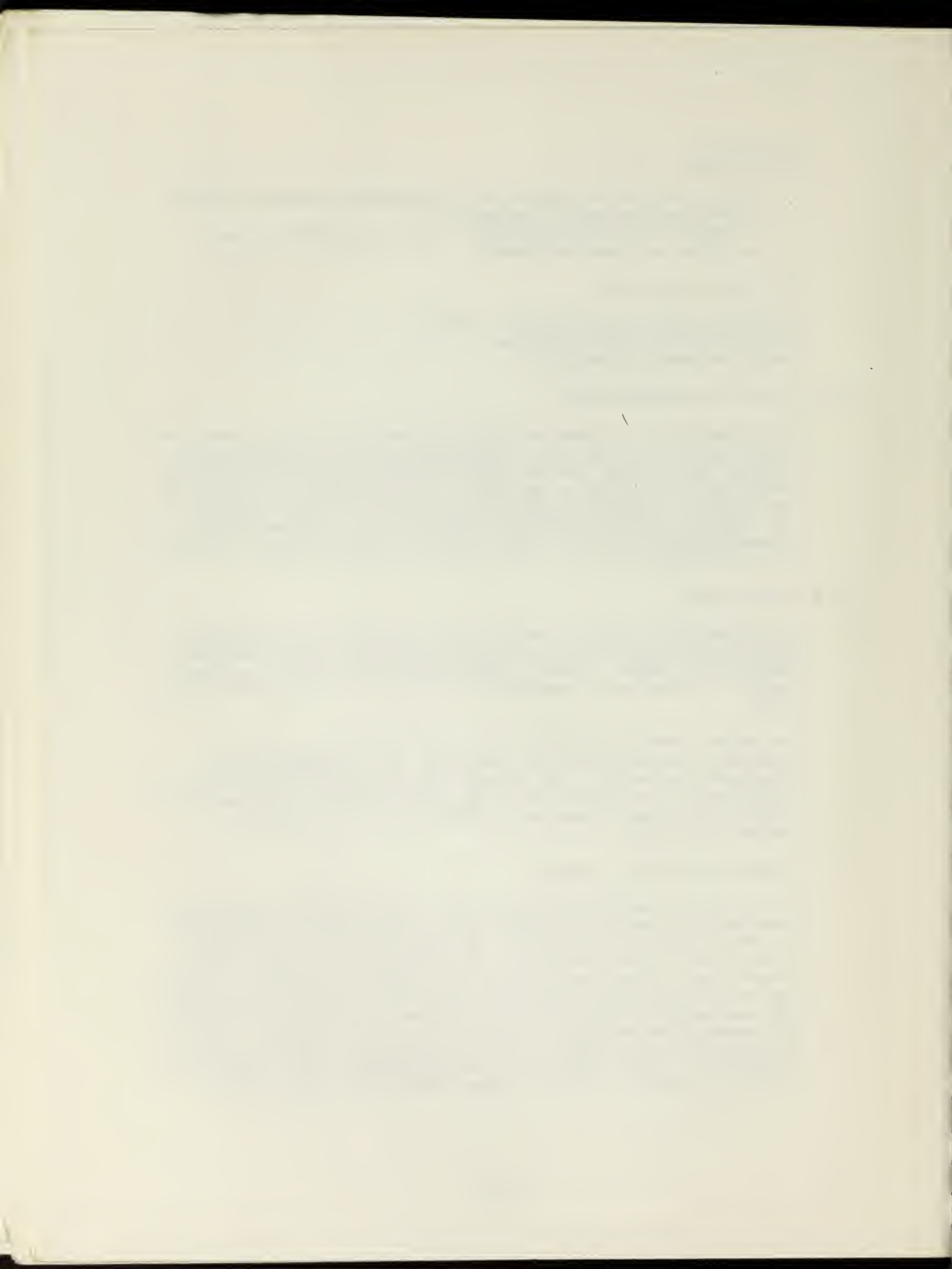
One drawback to an outright sale is that, depending on the property value, the landowner may end up paying significant Federal and State capital gains taxes. However, capital gains taxes as well as other taxes can be avoided or reduced by donating all or some portion of the land.

One option, known as a bargain sale, actually combines a partial donation of the land along with the sale. The advantage of this arrangement is twofold: the landowner receives income from the portion sold as well as tax benefits from the portion donated. Tax benefits include a charitable deduction on income taxes and a reduction of capital gains taxes.

#### 3.2.6 Complete Charitable Transfer

The maximum allowable tax savings accrue from a "complete charitable transfer" of property, also known as an outright gift. These benefits are only available if the land is donated to a qualified charitable organization or government agency for conservation purposes. A donor is permitted to deduct up to 30% of his or her adjusted gross income in one year and any excess value over the 30% limit can be carried over and deducted in the next succeeding five years. Furthermore an outright gift exempts the landowner from Federal capital gains taxes, the 8% Massachusetts capital gains tax and estate taxes. Complete charitable transfer is a viable solution for those landowners who are seeking tax relief as opposed to the extra income which a sale would generate.





### 3.2.7 Gift in Trust

It is important to note that, while a gift of land to a charitable organization might qualify for tax benefits, it does not guarantee that the land will be maintained in its natural or open condition. A charitable organization is not legally required to preserve an unencumbered gift of land. Thus any unrestricted gifts of land could be sold to a developer or other interested party for any use. When a landowner wishes to insure that the land is preserved in its natural state, he or she should employ a device known as a charitable gift in trust. The trust clause is akin to a deed restriction. It is a "term" or "condition" which accompanies the title and which the recipient agrees to respect. Unless a trust clause is included in the title, the donor has no legal control over the future use of the land.

### 3.2.8 Reserved Life Estate

Another alternative--a reserved life estate--allows a landowner to donate property as a future interest. The property owner donates the land during his or her lifetime, but reserves the right to continue using the land until death. At that time the title reverts to the designated charitable organization. Again, to insure preservation of the land, a restriction clause should be included in the agreement. An income tax deduction is allowed and estate (death) taxes are avoided.

## 4.0 DEED RESTRICTIONS

### 4.1 Restrictive Covenants

A neighborhood group may institute a restrictive covenant that would be attached to the property deeds held by members of the group. The covenant may bind present and future owners of the property to specific restrictions including altering or demolishing the structure and/or preserving the landscape. The creation of a covenant requires a consensus of all owners involved.



# *LAND TRUSTS*





## ACKNOWLEDGEMENTS

This handbook and the material provided herein are abstracted from a collaborative effort of the Land Trust Service Bureau, The Nature Conservancy (TNC) and the Conservation Law Foundation of New England, Inc. (CLF). The Connecticut Land Trust Handbook, produced by this effort, was used as a model for the creation of this booklet and material from the Trust Handbook herein is paraphrased and adapted. The reference list was provided by the Land Trust Exchange in its Winter Issue (Special Issue on Program Building) of the Journal of Land Trust Exchange.

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#### WHY PRESERVE LAND?

The reasons for saving land are as diverse as the landscape itself. But all land-saving activity falls within two general philosophies: preservation and conservation. Local land conservation efforts in New England began in the 1890s with the founding of the Trustees of Reservations in Massachusetts, and the Connecticut Forest and Park Association. The first land trust was formed in Sudbury Valley, Massachusetts, in the 1950s. The activities of land trusts often involve both conservation and preservation, but the public is the ultimate beneficiary. Land, when viewed as a community of living things is preserved to maintain a living resource. To withdraw land from development isn't merely to halt something undesirable, it is instead to commit land to a high purpose whose dividends will pay out in the future.



## I. Land Conservation Trust

### 1. Definition

A land conservation trust is a private, nonprofit organization devoted to the preservation of locally significant parcels of natural areas and open space. The trust receives its land as gifts from individual landowners (through donations and bequests) and developers, and through purchase. It uses the land for passive purposes which are educational, recreational, and/or scientific in nature. A voluntary board of directors runs the trust, and its membership is open to the general public. In addition, a land trust may provide other educational opportunities and assist its town with acquisition of open space and land-use planning.

### 2. Various Types of Land Trusts

There are three types of trusts:

- o single town (with parcels scattered throughout the community)
- o regional (located in less populated areas of the state, with holdings in two or more towns)
- o single site (with a single parcel which the trust manages and expands where possible).

### 2. Need for a Land Trust

A land trust provides a unique private mechanism for land preservation. It can be:

- o receiving land unacceptable to state or national conservation organizations
- o manage land for which other organizations are unwilling to accept fiscal responsibility
- o operate free of political and statutory restraints
- o refocus its efforts to meet changing local land preservation needs
- o act quickly in an emergency situation
- o target for protection parcels of key location or value, such as sites protecting a flood plain or aquifers, or areas of historical, natural, or scenic importance
- o negotiate with a potential land donor with speed, privacy, diplomacy, and flexibility
- o solicit monies from various sources
- o work with town officials to shape local land-use planning
- o provide educational and recreational opportunities.





### 3. Providing New Forms of Protection

Owing to its flexibility, a land trust can provide services which other bodies cannot. A local government is not equipped to operate beyond its own political boundaries, however, a land trust can form to preserve a specific area or natural resource which is contained within more than one jurisdiction.

The land trust can acquire asset land, property which itself is unworthy of preservation but which can be sold in exchange for more desirable land. A town would find this type of transaction time consuming and burdensome.

The trust can consider more active forms of land management, such as agricultural use and woodcutting, than can larger conservation organizations which are held accountable to stricter criteria.



## II. HOW TO FORM A LAND TRUST

Interested citizens and/or town officials can help preserve local natural areas and open space by forming a land conservation trust. The formation process is not a difficult one, requiring only committed persons and the completion of some necessary paperwork.

### A . Human Resources

#### 1. Initial Focus

Local citizens, perhaps members of the conservation commission or of existing local community groups unable to hold land, may first become aware of the need to form a land trust. This may become apparent in a number of ways:

- o intensive local development or pressure for improper development
- o a series of poor local zoning decisions
- o lack of government funding for acquisition of local open space
- o lack of interest in land preservation on the part of local government or any other community group.

In any case, a group of citizens decides to try to preserve remaining local natural resources. Included in this list may be green belts, coastal resources, areas of historic or scenic value, habitats of wildlife (especially of rare or endangered species), land important to protecting the quantity or quality of the local water supply, and areas for public education and recreation.

Before proceeding, this group should evaluate the local government, existing community bodies, and neighboring groups to determine if any other organization could function as a land trust. If none can serve in this capacity, the group may decide to form a new organization to preserve local open space. A land conservation trust, as a nonprofit organization which can act independently and can hold and manage land for the benefit of the public, will provide the necessary vehicle.

#### 2. Developing Local Support

The group of citizens interested in forming a land trust should compile local land-use statistics and point out land-use trends.

Identifying a particular parcel in need of protection will help develop a base of public support and participation. If the initial protection effort is successful, it will help insure the future of the trust.

The group must also analyze whether or not there is enough volunteer interest to sustain the trust. In an effort to determine interest and to expand it, the group should identify and contact key persons, urging them to support the land trust concept and to participate in the operation of the trust. Such key persons might include representatives of:





- o historical societies
- o church groups
- o garden clubs
- o local businesses
- o volunteer and civic organizations
- o scouting groups
- o service organizations (Kiwanis, Rotary, Elks, Moose)
- o school parent-teacher groups
- o fishing and other sports groups
- o bird clubs

Others might include:

- o potential donors
- o local scientists and teachers
- o people living near an initial land acquisition
- o community leaders (bankers, business persons, real estate persons, sympathetic developers)
- o town officials

It is important to demonstrate from the beginning the participatory nature of the land trust, so the group should keep the general public informed of its concerns and plans. The best way to obtain general acceptance and receive additional participation and support is by means of the media.

### 3. Preliminary Steps

As the group continues to examine the viability of a land trust, it should draw up a statement of purpose, hold several public meetings, and secure a financial base. It may also seek legal advice.

#### a. Statement of Purpose

A statement of purpose for the land trust clarifies the organization's direction for the public and for potential land donors. The wording of the statement is important, since it sets the tone for the trust's whole operation. The statement should be the basis for the trust's articles of organization.

#### b. Public Meetings

The group should call a series of public meetings, at an accessible and familiar location, to explain the purpose of the trust and to obtain broader support. Good press coverage of these meetings helps insure visibility and community understanding and support. The group should invite to the meetings people whose participation in the trust is vital to its success, and members of nearby trusts who can help answer questions.

#### c. Financial Base

As the group forms the land trust, it will need money for filing fees and initial publicity, including meeting notices, press releases, and an informative flyer. The amount of money needed



depends on the amount of volunteer participation and free services the group can obtain, and the elaborateness of its effort, but \$200 - \$1000 should suffice. If even this amount is not immediately available, more can be raised as it is needed. Charter members, for instance, may be asked for contributions.

d. Legal Advice

While it is possible for a layman to complete the initial paperwork, a trust may wish to consult a lawyer. This person should understand how a private nonprofit organization operates, and should be interested in land conservation. The group should make sure that representing the trust would not be a conflict of interest for the lawyer.

In addition to drawing up and filing initial trust papers, the attorney may continue to serve the trust in land acquisition and management matters. The group should enumerate the scope of work involved, and should establish payment for services on an "as needed" basis. The lawyer may be willing to work for a reduced fee.

B. The Paper Process

1. Incorporation

Most land trusts are actually not trusts at all in the legal sense, but are nonstock corporations organized for charitable purposes. A genuine trust is usually established by an individual transferring property to a trustee to be administered under conditions stated in a trust document. In contrast, the corporate form used by land trusts allows much greater flexibility in involving interested individuals, obtaining contributions, and managing holdings.

Corporations have a legal identity which is separate from that of individuals involved in their management. This legal structure protects individuals from liability for most suits involving corporate activities. Unincorporated associations do not provide such protection, and are not appropriate for use in land preservation.

a. Major Issues

i. Corporate Name. Land trusts are often named after the town or region in which they plan to operate. Other names which provoke interest or identify the trust with the area may also be chosen. The only legal requirements are that the name be distinct from that of any other corporation and that it contain "corporation", "company", "incorporated", or an abbreviation of one of these terms.

ii. Board of Directors. The critical group in the organization's success, the board is responsible for managing the property and affairs of the trust and for making the critical decisions. Considerable thought should be devoted to who should be on the board and how they should be selected.





From the legal perspective, there is great flexibility in organizing the board. It must have at least three directors and include a cross section of interests such as community leaders, experts, and public officials on the board will help the trust qualify for federal tax purposes as a public charity. Major contributors of land and/or funds may be on the board without endangering its public charity status if they do not have a controlling interest.

Directors should be able to assist in carrying out the goals of the trust: to obtain appropriate land and to manage it for the public good. Of course, the prime qualification for all directors is their willingness to spend time, money, and energy in making the trust a success.

The group forming the trust must decide how many directors there will be, how they will be selected, how long they will serve, and who will be on the initial board. A board with seven to fifteen members is most efficient, but a larger number may be helpful in generating interest in the trust.

The initial board is selected by those who sign the certificate of incorporation. Thereafter, if the trust has members they will generally select some or all of the subsequent directors. The trust's bylaws provide that persons occupying particular offices or positions, or who are chosen by related organizations, are automatically also directors.

Directors serve for one-year terms unless a longer term of two or three years with staggered selection dates is specified.

iii. Members. Many land trusts have members who elect some or all of the directors at annual meetings, and who must approve organizational changes such as amendments to the bylaws and the articles of organization. Membership gives large numbers of people the opportunity to participate in the organization's affairs and, through dues, raises funds to help with trust expenses.

If there are to be members, qualifications of membership must be established. There may be classes of membership--such as regular, organizational, sustaining, and lifetime--with different voting power or dues.

The statutes provide that the affirmative vote of two-thirds of the entire membership (not just those at a particular meeting) is necessary for approval, unless the articles of organization preclude a vote by members on such changes.

b. Necessary Documents

The next step is selecting the initial board of directors and officers and adopting the bylaws. The filing of the first biennial report form completes the process. Filing fees are modest. Copies of all documents should be kept by the trust with the minutes of corporate meetings.





i. Articles of Organization. With the basic guidelines, the articles should be kept as simple and flexible as possible. Detailed provisions are better placed in the bylaws which are much easier to amend. The statutes require the certificate to contain the name of the corporation, a statement of purpose, a statement that the corporation is nonprofit, and information about the rights of members. In order to qualify for tax-exempt status under federal law, the trust must also include in the limitations of the purposes according to the particular tax status sought, a statement limiting political activity, and a provision for disposition of assets upon dissolution of the corporation.

The statement of purpose should be broad enough to include all charitable activities in which the trust might engage. The trust should specifically limit its activities to those allowed under Sec. 501(c)(3) of the Internal Revenue Code. Ordinarily, the articles should not restrict activities to a particular geographic area even though such a restriction is intended, since situations may arise where the trust can assist another trust or fill a void by accepting property interests temporarily in another area.

If the land trust intends to qualify under the federal tax laws as a private operating foundation, the articles must contain provisions requiring its income to be used for charitable purposes and prohibiting it from engaging in self-dealing, lobbying, and certain financial activities. Trusts intending to qualify only as public charities must include a statement that lobbying will not constitute a substantial part of their activities. All charitable organizations must avoid participation in political campaigns.

The articles must indicate whether the corporation is to have members. If so, any designations of classes, the manner of election or appointment, and the qualifications and rights of members must be specified. Again, the provisions in the articles should be general, leaving details to the bylaws. The principal rights to be covered should be whether the members can vote on fundamental changes and on bylaw amendments.

The articles are signed by one or more persons who are known as the incorporators. One to three people should be designated to perform this task, which is ceremonial once the decisions have been made. A certified copy of the articles should be requested from the secretary of state to be kept in the corporation's files.

ii. Bylaws. The bylaws should include the organizational structure and rules of procedure.

Several sections should be noted particularly. One way of coping with large boards of directors is to create an executive committee which can exercise part or all of the board's authority, as specified. A general provision authorizing the board to receive and transfer land eliminates the need for specific authorization each time the situation arises.



Similarly, a general provision allowing the board to employ staff or consultants should be included.

The bylaws are adopted and directors and officers elected by the incorporators at the organization meeting. In practice, the incorporators generally consent in writing to a set of minutes which indicates that the bylaws have been adopted and particular individuals have been elected as officers and directors.

iii. First Report. This report, with the names and addresses of officers, directors, and the statutory agent, must be filed within thirty days of the organization meeting. It may be filed with the articles of organization if the organization meeting has already been held.





### III. Internal Administration

#### 1. Books and Recordkeeping

In order to facilitate its internal operations and provide documentation for tax audits, the trust must maintain adequate records and books in a central file.

##### a. Corporate Records

The central file should contain all significant corporate records, including:

- o all initial corporate documents
- o any amendments to the certificate of incorporation or the bylaws
- o minutes of all membership and board meetings
- o all tax records and other forms
- o deeds and survey maps
- o financial records.

##### b. Financial Statement

The trust's treasurer should make periodic reports to the board of directors on the trust's financial status, including its income and expenditures. An annual financial statement should be prepared at the end of the trust's fiscal year for the benefit of members and the general public.

##### c. Parcel Record

The trust should maintain a complete record of all parcels of land it manages -- property that is leased, owned, or on which easements are held -- to facilitate its operations and the filing of the required forms. This record should include:

- o baseline data on the parcel at the time of acquisition
- o donor information and correspondence
- o a management plan with designated use of the parcel
- o an inventory.

The inventory should specify parcel name, acreage, location, purchase price (or market value), when it was acquired, any reverter clause or restriction, history of acquisition, and the date the parcel deed was signed and recorded.

#### 2. Expenses

##### a. Trust Operations

A trust's operational expenses will vary according to the size of its membership and the community, and the kinds of activities it undertakes. These expenses include:



- o legal fees
- o liability insurance
- o meeting costs
- o publicity costs
- o printing and mailing items for membership maintenance.

b. Acquisition

The trust will incur expenses as it acquires property. Included in the costs may be fees for an attorney, appraiser, and surveyor; taxes; and title search, title insurance, and recording fees.

c. Parcel Maintenance

These expenses will vary according to the parcel's use, location, size, and protection needs. For larger parcels, these expenses could be substantial.

B. External Administration

1. Federal Tax Exempt Status

To function, the land trust must obtain and maintain federal tax-exempt status.

2. State Tax Exempt Status

a. Property Tax Exemption

Land Trust property used for charitable purposes is exempt from local property taxes if the appropriate forms are filed.

b. Sales Tax Exemption

The land trust is exempt from the sales tax on items purchased if it files the appropriate documents.

3. Insurance Coverage

a. Liability Insurance

Land trusts should obtain liability insurance coverage since many potential legal issues remain unresolved. No land trust would want to provide the test case, or pay the costs of defending a frivolous suit.

4. Form Filing

The land trust must file:

- o the appropriate federal tax return annually
- o the state forms on solicitation by a charitable organization annually
- o amendments to the articles of organization.



## C. Maintenance of the Organization

### 1. Membership

#### a. Communitywide Appeal

To maintain and increase membership, the trust needs a broad base of support. By demonstrating that it is open to and serves the entire town by preserving open space and by providing educational, scientific, and passive recreational opportunities, the trust can project a favorable image.

#### b. Structure

i. Membership Categories and Dues. In setting the dues rates, the trust should attempt to balance the need for money and for members. By having numerous categories of membership, the trust can encourage persons of all ages and all income levels, as well as business and other organizations, to join. Categories, and the qualifications and rights of each, should be specified in the trust's bylaws.

ii. Board of Directors. The board of directors is crucial to the trust's success, since the board makes the trust's decisions and directs its activities. Specific duties and authority of the board are established in the bylaws.

#### c. Functions

i. Meetings. The trust must hold an annual meeting to elect its board and to inform the membership of trust activities during the past year. In addition, it should host more frequent regular meetings to encourage member and public participation.

### 2. Manpower

#### a. Volunteers

While some trusts occasionally hire staff, the vast majority rely solely on the shrinking volunteer labor force. The trust may find volunteers among retired citizens, new residents of the community, town leaders, homemakers with small children, science students, and members of similar organizations.

### 3. Fundraising

A trust needs money to fund its organizational operations and its property acquisition and maintenance. Before establishing strategies on how to raise necessary funds, a trust must identify and clarify its financial needs -- both long- and short-range. In general, a trust should be able to cover its operating costs by means of normal membership dues and contributions. However, land acquisition and/or maintenance may require substantial additional funds.





a. Promotion

If the trust's financial needs are general in nature, it should demonstrate its purposes and accomplishments to potential donors by distributing existing trust literature or developing and distributing new materials.

b. Sources

i. Form of Contribution. The form of the contribution will depend on the trust's appeal and the donor. Trusts may receive cash, securities, personal property, and asset land, and contributions may come in the form of an outright gift, an endowment, a bequest, or a grant. The trust should not overlook bank loans as a method of financing an acquisition.



#### IV. Preliminaries

##### 1. Initial Identification and Contact

To identify land it wishes to obtain, the trust should consult maps, compile a list of large landowners from the tax assessor's files, and be alert of word of potential land donors.

##### 2. Personal Contact Preparation

Once a prospective donor has been identified, the trust should collect as much pertinent information on the person as possible: his or her interest in conservation, general financial status, relatives and heirs, and interests and friends.

##### 3. Landowner Contract

At this initial meeting, the person representing the trust should state its desires clearly. Specific interests, such as certain portion of land or access may be mentioned, if the trusts's representative feels such subjects are appropriate at this time.

##### 4. Skills and Services Needed

Before pursuing a parcel, either as a gift or purchase, the trust should inform the trust's lawyer, who will be involved in the legal aspects of the transaction.

##### 5. Negotiations

As the land trust negotiates with the owner, the two sides must decide whether acquisition will be a gift or sale; and who will pay for the costs of the transaction, including the appraisal, survey work, title fees, and deed work.

#### B. Methods of Acquiring Land

The protection of a parcel of land can be accomplished in a variety of ways. In determining the best method to do so, the key is to define the needs and wishes of the parties as precisely as possible.

##### 1. Gifts Without Restrictions

###### a. Land to Be Preserved

People give land to a trust for two primary reasons: because they want it protected, or because they want some economic benefit.

i. Preservation. The donor may wonder about the security and permanence of preserving land under the trust's ownership.





ii. Tax Advantages. The financial advantages to the donor will come from various kinds of tax benefits, including relief from property tax; avoidance of capital gains, conveyance, estate, and gift taxes; and the ability to take appropriate income tax deductions.

b. Asset Land

"Asset land" or "trade land" is property given to a land trust to sell, with the receipts used for land trust purposes, or to exchange for parcels which the trust wishes to preserve.

c. Devises

Devises are gifts of land made through the will of a property owner.

2. Purchases Without Restrictions

a. Purchase at Fair Market Value

The fact that a land trust is the purchaser in a sale of property at fair market value does not affect the legal consequences for the seller, who must pay capital gains taxes and who receives no charitable deduction.

b. Bargain Sale

This is a sale at less than fair market value. The difference between the sale price and the fair market value may be used by the seller as a charitable contribution.

c. Sale-Resale or Sale-Leasback

These are procedures whereby the land trust buys an unrestricted parcel, places a restriction on it, and then resells it or leases it. The most common type of restriction in this sort of transaction is a conservation easement restricting development, although various other kinds of easements can also be applied.

d. Installment Purchase

There are three kinds of installment purchase:

- o buying the parcel outright and paying for it over a period of years;
- o buying the property in sections; and
- o buying fractionalized interests in the entire property.

e. Preemptive Buying

If a large area of significant land or wetland is threatened with development and the trust can not afford to buy the whole parcel, it may be able to buy a strategically placed piece or pieces of the parcel.



f. Options to Purchase

If a land trust is willing to buy a particular parcel but does not have the necessary funds, it may acquire an option to purchase. This is a legally binding agreement that the trust has the exclusive right to buy the parcel at a specified price within a specified time limit.

3. Transfers of Restricted Interests in Land

The ownership of property is composed of many rights and responsibilities. The most important of these methods of transferring restricted interests are the reserved life estate and the conservation easement. A third device, the reverter, is effective for insuring that specified conditions are met.

a. Reserved Life Estates and Remainders

A donor may give or sell land to the trust, reserving a lifetime right to use the property.

b. Conservation Restrictions (easements)

A conservation restriction limits what an owner can do with the property, or enables others to use it for specific purposes.

c. Reverters

A donor may want to make a gift of land subject to a reverter. This means that if the trust ceases to preserve the land, or destroys some element of the land (such as cutting down a particular stand of trees), the land will be taken away from the trust and given to someone else. A reverter insures that a donor's wishes as to the future of the property will be respected.





## And some other places to look...

### National Organizations

**AMERICAN FARMLAND TRUST:** 1717 Massachusetts Avenue, N.W., Suite 601, Washington, D.C. 20036. (202) 332-0769. Or. in CA, Will Shafroth, 681 Market St., Suite 969, San Francisco, CA 94105. (415) 543-2098.

**CITIZEN INVOLVEMENT TRAINING PROJECT:** 138 Hasbrouck, U. of Massachusetts, Amherst, MA 01003. (413) 545-2038. The Co-operative Extension Service at the University of Massachusetts, Amherst, has published a series of eight practical manuals with straight-forward information, self-learning materials, exercises, and resources written for the individuals and groups wanting to increase their effectiveness. Price: \$6 plus 50% handling.

**CONNECTICUT LAND TRUST SERVICE BUREAU:** Box MMM, Wesleyan Station, Middletown, CT 06457. (203) 344-0716.

**CONSERVATION LAW FOUNDATION:** 3 Joy Street, Boston, MA 02108. (617) 742-2540.

**COUNCIL ON FOUNDATIONS:** P.O. Box 501, Martinsville, NJ 08836. National Association of Foundations publishes *Foundation News* bimonthly. Subscription: \$24/year.

**ENVIRONMENTAL INTERN PROGRAM:** 1029 Statler Office Building, Boston, MA 02116. (617) 426-4783.

**THE FOUNDATION CENTER:** Call (800) 424-9836 for the library nearest you. The single authoritative source of information on foundation-giving. Primary activities include: publishing reference books (directories, grant indexes, guides, and bibliographies) and disseminating information through a network of 100 libraries.

**THE GRANTSMANSHIP CENTER:** Call (800) 421-9512; in CA. (213) 749-4721. Training programs in grantmanship, fundraising without grants, and program management. Publishes *Grantmanship News* bimonthly. Subscription: \$29/year.

**INDEPENDENT SECTOR:** 1828 "L" Street, NW, Washington, DC 20036. (202) 223-8100. Professional membership group of fundraisers, corporations, and the public sector representing the non-profit community. Many publications.

**INSTITUTE FOR COMMUNITY ECONOMICS:** 151 Montague City Road, Greenfield, MA 01301. (413) 774-5933.

**NATIONAL PARK SERVICE:** Regional Offices — Philadelphia, PA (215) 597-7013; Boston, MA (617) 223-3769; Atlanta, GA (404) 221-5185; Omaha, NE (402) 221-3431; Santa Fe, NM (505) 988-6388; Denver, CO (303) 234-2500; San Francisco, CA (415) 556-4196; Seattle, WA (206) 442-5565; Washington, DC (202) 426-6612; Anchorage, AK (907) 276-8166. Heritage Conservation and Recreation Service, a group now merged with the Park Service, has published handbooks on a variety of subjects, including: developing support programs; land conservation and preservation techniques; volunteering; and a series — Technical Assistance Notifications. For copies contact the regional office nearest you. Also available: *New Tools for Land Protection: An Introductory Handbook* (#1982-382-875-8490), available from Office of the Secretary, U.S. Department of the Interior, Washington, DC 20240.

**NATIONAL TRUST FOR HISTORIC PRESERVATION —** Regional Offices: Chicago, IL (312) 353-3424; San Francisco, CA (415) 556-2707; Denver, CO; Washington, DC (202) 673-4203; Charleston, SC (903) 724-4711; Boston, MA (617) 223-7754; Oklahoma City, OK (405) 231-5126.

Provides concise information on basic preservation techniques. Information sheets related to land conservation include: rural conservation, easement programs, and development of rural conservation programs. Contact the regional office of the National Trust nearest you for free copies and information.

**NATURAL LANDS TRUST:** 1338 Chestnut Street, Philadelphia, PA 19109. (215) 567-5590.

**THE NATURE CONSERVANCY:** Regional Offices — Boston, MA (617) 542-1908; Minneapolis, MN (612) 379-2134; Arlington, VA (203) 841-5300; San Francisco, CA (415) 989-3056.

**TRUST FOR PUBLIC LAND:** 82 Second Street, San Francisco, CA 94105. (415) 495-4014. Publishes an on-going series of technical information bulletins for trusts. Topics include: "Local Trusts and Lobbying," and "Tax Exempt Status for Land Trusts," among others. For a complete listing of bulletins contact Mary Lester, Land Trust Program, at the address above.

**U.S. SMALL BUSINESS ADMINISTRATION:** P.O. Box 15434, Fort Worth, TX 76119. (800) 433-7212. Offers a range of publications, from small manuals to bibliographies. Subjects include: financial planning, general administration, marketing, etc. Send for list of free (#115-A) or for-sale (#118-B) publications. Available from address above. Also sponsors the **SERVICE CORP OF RETIRED EXECUTIVES**, a volunteer group providing management counseling at no cost. Contact nearest Small Business Administration or National SCORE Office, 1441 "L" Street, NW, Washington, DC 20416.

**VOLUNTEER: THE NATIONAL CENTER FOR CITIZEN INVOLVEMENT —** Suite 500, 1111 North 19th Street, Arlington, VA 22209. (703) 276-0542.

Created to strengthen and stimulate volunteer involvement. Services include: consulting and training services; a quarterly magazine for volunteer leaders; national advocacy; and a catalogue listing over 60 publications to help recruit, train, recognize, and organize volunteers. For a free copy write the address above.

### Massachusetts based Trusts

Appalachian Mountain Club  
Barnstable Conservation Commission  
Barre Conservation Commission  
Bedford Conservation Commission  
Berkshire County Land Trust  
Berlin Conservation Commission  
Beverly Conservation Commission  
Bourne Coconservation Trust  
Brookline Conservation Commission  
Brookline Conservation Land Trust  
Carlisle Conservation Commission  
Carlisle Conservation Foundation, Inc.  
Central Roxbury Community Land Trust  
Chatham Conservation Foundation  
Chilmark Coconservation Commission  
Concord Land Conservation Trust  
Concord Natural Resources Commission  
Dartmouth Natural Resources Trust  
Dennis Conservation Commission  
Duxbury Rural and Historical Society  
Essex County Greenbelt Association, Inc.  
Felix Neck Wildlife Trust, Inc.  
Framingham Conservation Commission  
Hingham Conservation Commission  
Hingham Land Conservation Trust  
James W. Brooks Sanctuary  
Lincoln Conservation Commission  
Lincoln Land Conservation Trust  
Littleton Conservation Trust  
MA Department of Food and Agriculture  
Manchester Conservation Trust  
Mass. Farm and Conservation Lands Trust  
Massachusetts Audubon Society  
Mattapoisset Land Trust  
Metropolitan District Commission  
Minute Man National Historic Park  
Nantucket Conservation Foundation  
Nashoba Conservation Trust  
Nashua River Watershed Association  
Natural Resources Trust of Easton  
New England Forestry Foundation  
Nissitissit River Land Trust  
Oak Park Conservation Association  
Open Land Fund  
Orleans Conservation Trust  
Pepperell Conservation Commission  
Rogers Farm Trust  
and Wethersfield Park Trust  
Salt Pond Areas Bird Sanctuaries  
Seekonk Land Conservation Trust  
Sheriff's Meadow Foundation  
Shirley Conservation Commission  
Squam Lakes Conservation Society  
Sudbury Valley Trustees  
The Trustees of Reservations  
Vineyard Conservation Society  
Vineyard Open Land Foundation  
Wellesley Conservation Council  
Westford Conservation Commission  
Weston Forest and Trails Association  
Westport Land Conservation Trust  
White Oak Land Conservation Trust  
Worcester Bureau of Land Use Control  
Wrentham Conservation Commission







